

Responses to Comments

on

Recirculated Sections of FEIR 564

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on

Revised Section 5.1.1

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on

Recirculated Sections of FEIR 564

Table of Contents

Letter 1 - Charles and Mary Marken	1
Letter 2 - Joseph and Ute M. Packi	2
Letter 3- Undated Petition Received September 22, 1998 from Residents of Forest Garden Park Mobile Home Community	3
Letter 4 - Lake Forest II Master Homeowners Association	11
Letter 5 - Irvine Ranch Water District	12
Letter 6 - David Melvold	19
Letter 7 - City of Anaheim	34
Letter 8 - Southern California Association of Governments	35
Letter 9 - Jim Richert	36
Letter 10 - City of Irvine	40
Letter 11 - Loretta Fischer-Herrin	53
Letter 12 - Blanka Burgo	54
Letter 13 - Charlotte Herrin	55
Letter 14 - Lex Herrin	56
Letter 15 - Ron Burgo	57
Letter 16 - Bradley T. Herrin	58
Letter 17 - City of Santa Ana	59
Letter 18 - The Irvine Company	60
Letter 19 - South Coast Air Quality Management District	68
Letter 20 - City of Anaheim, dated October 2, 1998	71
Letter 21 - City of Lake Forest	80
Letter 21A - Attachment to City of Lake Forest Letter	82

Comment Letter 1:
Charles and Mary Marken

.....

September 10, 1998

George Britton
PDSD/Environmental & Project Planning
300 North Flower ST. Room 321
P.O. Box 4048
Santa Ana, CA 92702-4048

Charles and Mary Marken
21092 Paseo Ventura
Lake Forest CA 92650

RECEIVED
SEP 11 1998
Environmental & Project Planning

Dear Sir:

We are writing to express our complete dissatisfaction with the proposed expansion of the Musick Jail, located at 13502 Musick Drive in Irvine. When we purchased our home in Serrano Park 6 years ago it was disclosed to us and all others buying in the proximity of the jail, that it was a MINIMUM SECURITY facility and would stay that way. We would not have bought a home in this area if there was even a possibility of turning Musick into anything larger.] 1.1

This is a facility on the edge of a residential neighborhood, 700 feet away from law abiding families living in a peaceful, low crime neighborhood. We do not want more serious offenders housed next to our homes, released next to our homes, nor do we want a 600% increase in the amount of visitors that an enlarged facility will bring in and about our neighborhoods while they are waiting for visiting hour or waiting to pick up someone who has just been released.] 1.2

We ask that you please not support the proposed expansion.

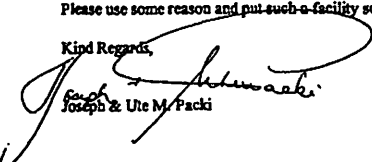
Sincerely,
Charles Marken
Mary Marken
Charles and Mary Marken

.....

Response to Letter 1:

- 1.1 This is an expression of opposition to the project and raises no substantive environmental issue. The source of the disclosure mentioned is not stated, but as early as 1986 the County had proposed additional classifications for inmates at the Musick site.
- 1.2 The new facility buildings are, at their closest point, over 1,200 feet from a detention building. The comment is an expression of opposition to the project and raises no substantive environmental issue.

**Comment Letter 2:
Joseph and Ute M. Packi**

<p>JOSEPH & UTE M. PACKI 25422 TRABUCO ROAD #105-331 LAKE FOREST, CA 92630-2797 TEL: (949) 855-6579 FAX: (949) 830-1779 E-mail: utepacki@email.msn.com</p>		<p>RECEIVED SEP 18 1998 Environmental & Project Planning</p>
<p>Mr. George Britton, Manager PDSD/Environmental & Project Planning Services 300 North Flower Street, Rm 321 P.O. Box 4048 Santa Ana, CA 92702-4048</p>	<p>Sept. 15, 1998</p>	
<p><u>Re: Expansion of James A. Musick Facility</u></p>		
<p>Dear Mr. Britton,</p>		
<p>We too, want to voice our strongest opposition to the plans of expanding Musick Jail. Our neighborhood is so full of children, it is UNTHINKABLE to bring so many criminals and their families into this neighborhood.</p>		
<p>The South County folks have just about had it with all the stuff that is being pushed upon us, from International Airports to maximum security prisons. What else can you think of to ruin the hard earned "quality of life" that we thought we were buying here?</p>		
<p>Please use some reason and put such a facility somewhere outside of such a populated area.</p>		
<p>Kind Regards,  Joseph & Ute M. Packi</p>		

Response to Letter 2:

- 2.1 This is an expression of opposition to the project and raises no substantive environmental issue.

Comment Letter 3:
Undated Petition Received September 22, 1998
from Residents of Forest Garden Park Mobile Home Community

		RECEIVED SEP 22 1998 Environmental & Project Planning
<u>COMMENTS CONCERNING THE MUSICK JAIL EXPANSION</u>		
We the undersigned inhabitants of the Forest Garden Park in Lake Forest, object to the expansion of the Musick jail, and request the jail be located to a more suitable rural location, where it will not interfere with the lawful enjoyment of homeowners, and commercial tenants, for the following reasons:	}	3.1
1. <u>PROXIMITY</u> The proximity to local homes will create a SEVERE reduction in value to all residential property within eyesight. It will create a SUBSTANTIAL reduction in all residential property value within one mile of the facility. It will create an UNNECESSARY property reduction for all home owners within two miles of the facility.	}	3.2
2. <u>CUMULATIVE EFFECT ON THE ENVIRONMENT</u> The cumulative effect of the proposed airport, and the jail expansion will create an extended disruption of the environment during the construction of the expansion. Then after the construction is completed the jail will impinge on the quality of living for those people who live in the proximity of the facility.	}	3.3
3. <u>ALTERNATE SITE FOR THE 6200 ADDITIONAL INMATES.</u> The expansion will only need to be for 6200 additional inmates if the present facility is left as is, and a new rural site is approved.	}	3.4
4. <u>CONSTRUCTION COST</u> We need assurance that whatever funds are required be available before the project is approved, without any tax increases.	}	3.5
5. <u>ANNUAL EXPENSE</u> We need assurance that the funds needed for annual expenses are available, without increases in real estate or sales taxes.	}	3.6
6. <u>AIRPORT DECISION</u> Before any approvals are made we need to know the final decision on the El Toro facility.	}	3.7
<u>SO SAY WE ONE SO SAY WE ALL THE UNDERSIGNED</u>		

Response to Letter 3:

- 3.1 This is an expression of opposition to the project and raises no substantive environmental issue.
- 3.2 This is an expression of opposition to the project and raises no substantive environmental issue, and presents no evidence in support of the comment. A reduction in property values is not a reviewable area under CEQA. The prior certified EIR analyzed socioeconomic impacts and concluded on the basis of substantial evidence that there would be no adverse economic impact in the area. The petitioners' mobile home park is located approximately 3.2 miles from the jail site in a direct line, and therefore appears to be even out of the 2-mile radius considered important by the commenters.
- 3.3 The jail is to be expanded over three phases and over a period of years. The jail site is large enough to accommodate the construction staging on the site, and there is no import or export of dirt to fulfill the jail construction needs. Therefore, it will be similar to other building already going on in the area. It is unknown exactly when the airport construction will begin, but the impacts of airport construction are not likely to be felt on Muirlands in this area. The remainder of the comment is an expression of opposition to the project and raises no substantive environmental issue.
- 3.4 Another jail site would need to accommodate at least 6,334 inmates to equal the capacity of the Musick Expansion (7,584 minus 1,250 = 6,334). This number of inmates only addresses inmate housing needs to the year 2006 based on current projections. No "rural" site has been identified as feasible over the many years the County has studied the opportunity for locating a jail expansion.

Residents of Forest Gardens Mobile Home Community object to the expansion of the Musick Jail

Signature Please

<u>Signature & Address</u>	<u>Signature & Address</u>	<u>Signature & Address</u>
<u>Murley C. Hill</u> #197 24001 MUIRLANDS BLVD	<u>James T. Hill</u> #231	
<u>LAKE FOREST, CA 92630</u>	<u>Sam</u>	
<u>James A. Hill</u> #215 2400 MUIRLANDS	<u>Bonnie Acquisti</u> #257	
<u>LAKE FOREST CA 92630</u>	<u>James</u>	
<u>John G. Hill</u>	<u>William T. Hill</u> #231	
<u>24001-153 Muirlands</u>		
<u>Lake Forest, CA 92630</u>		
<u>Jack T. Caswell</u> 24001 Muirlands #118 Lake Forest, CA 92630		
<u>Kathleen Schilling</u> 24001 Muirlands #119 Lake Forest CA 92630		
<u>Margaret Laugel</u> 24001 Muirlands #168 Lake Forest 92630		

- 3.5 This is not an environmental issue. As explained in FEIR 564, a certified EIR and approved project are necessary to qualify for state or local funding. Therefore, it is not prudent or feasible to await the availability of funding to approve a project.
- 3.6 This is not an environmental issue, but rather a funding issue. Increases in real estate or sales taxes, pursuant to Proposition 13 and other state laws, are matters that need to be put to a vote of the people before imposition.
- 3.7 It is not explained why a final decision on the reuse of MCAS-EI Toro must be made before a decision is reached regarding jail expansion. As shown in the recirculated sections of the EIR, there is very little cumulative impact when the jail is combined with the MCAS-EI Toro property.

Signature Please
**Residents of Forest Gardens Mobile
 Home Community object to the
 expansion of the Musick Jail**

<u>Signature & Address</u>	<u>Signature & Address</u>	<u>Signature & Address</u>
<u>Eleanor P. Cyr</u>	_____	_____
24001 MURLANDS BLVD	_____	_____
#368	_____	_____
LAKE FOREST, CA 92630	_____	_____
<u>Normie Moore</u>	_____	_____
24001 Murland	_____	_____
#445	_____	_____
<u>Mike Lorell</u>	_____	_____
#2630	_____	_____
<u>Alan Platt</u>	_____	_____
24001 Space 266	_____	_____
<u>Minnie Archibald</u>	_____	_____
24001 Murlands #219	_____	_____
24001 Space 266	_____	_____
<u>MINE</u>	_____	_____
<u>Margaret H. Emery</u>	_____	_____
24001 Murlands #219	_____	_____
24001 Space 266	_____	_____
<u>Ruth Hall #308</u>	_____	_____
<u>RUTH HALL</u>	_____	_____
<u>PAT CLIFF OBRAY</u>	_____	_____
<u>ORAY Cliff Obay</u>	_____	_____
24001 Murland 313	_____	_____
<u>Jim Hall</u>	_____	_____
<u>FRAN HALL</u>	_____	_____
#308	_____	_____
_____	_____	_____

Residents of Forest Gardens Mobile Home Community object to the expansion of the Musick Jail

Signature & Address

William D. Nix

2401 Musick's Blvd
#197
Lake Forest, Ca 92630

Ben W. Hochman
2401 Musick's Blvd #21
Lake Forest, Ca. 92630

Harold Olynick
2401 Musick's Blvd
Lake Forest, Ca 92630

Marilyn Craft
2401 Musick's Blvd #321
Lake Forest, Ca 92630

John W. W. #387
2401 Musick's Blvd
Lake Forest, Ca. 92630

Betha Gray #3
2401 Musick's Blvd, Lake Forest
Calif 92630

Max M. #204
2401 Musick's, 92630

Joe Caputo
2401 Musick's
#23 Lake Forest

Signature & Address

Signature & Address

Residents of Forest Gardens Mobile Home Community object to the expansion of the Musick Jail

<u>Signature & Address</u>	<u>Signature & Address</u>	<u>Signature & Address</u>
<u>Donald Morgan</u>	_____	_____
<u>24001 Muirlands Blvd</u>	_____	_____
<u>#202</u>	_____	_____
<u>LAKE FOREST</u>	_____	_____
<u>Reverie Thayer</u>	_____	_____
<u>24001 Muirlands Blvd.</u>	_____	_____
<u>#410</u>	_____	_____
<u>LAKE FOREST</u>	_____	_____
<u>John Miller</u>	_____	_____
<u>24001 Muirlands Blvd.</u>	_____	_____
<u>#410</u>	_____	_____
<u>LAKE FOREST</u>	_____	_____
<u>St. Jack Jones</u>	_____	_____
<u>24001 Muirlands #480</u>	_____	_____
<u>Lake Forest CA 92630</u>	_____	_____
<u>Roland D. Clay</u>	_____	_____
<u>24001 Muirlands #395</u>	_____	_____
<u>Lake Forest CA 92630</u>	_____	_____
<u>Calvin Clay</u>	_____	_____
<u>24001 Muirlands #395</u>	_____	_____
<u>Lake Forest CA 92630</u>	_____	_____

Residents of Forest Gardens Mobile Home Community object to the expansion of the Musick Jail

Signature & Address

Signature & Address

Signature & Address

Richard Lassiter
24001 MUIRLANDS BLVD.
#444

Dae Harmon
24001 MUIRLANDS #46
Bob Schulz
24001 MUIRLANDS #46

Robert Musick
24001 MUIRLANDS #165

Lucia M. Brown
24001 MUIRLANDS #205

Donald E. Brown
24001 MUIRLANDS #225

Martha Berger
24001 MUIRLANDS #255

<u>Signature & Address</u>	<u>Signature & Address</u>	<u>Signature & Address</u>
<p>_____</p> <p>_____</p>	<p>_____</p> <p>_____</p>	<p>_____</p> <p>_____</p>

[illegible][illegible]

**Residents of Forest Gardens Mobile
Home Community object to the
expansion of the Musick Jail**

Signature & Address

Signature & Address

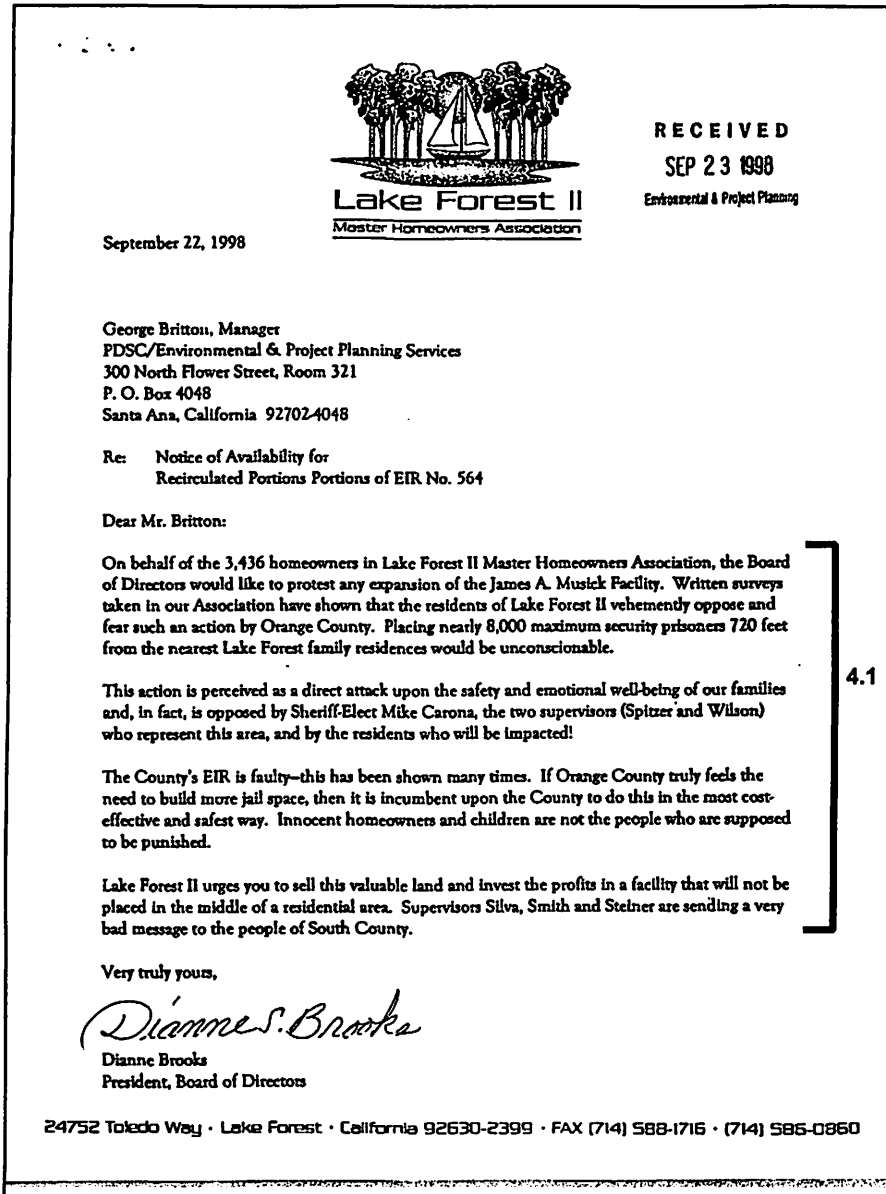
Signature & Address

Ron Moore

24001 Murlande #445

Lake Forest, Ca 92630



Comment Letter 4:
Dianne Brooks, President
Lake Forest II Master Homeowners Association



Response to Letter 4:

- 4.1 This is an expression of opposition to the project and raises no substantive environmental issue.

**Comment Letter 5:
Irvine Ranch Water District**

	<p>RECEIVED SEP 28 1998 Environmental & Project Planning</p>
<p>IRVINE RANCH WATER DISTRICT 15600 Sand Canyon Ave., P.O. Box 57000, Irvine, CA 92619-7000 (714) 453-5300</p>	
<p>September 23, 1998</p>	
<p>L0923GKH</p>	
<p>Mr. George Britton, Manager PDSD/Environmental & Project Planning Services 300 North Flower Street, Rm 321 P.O. Box 4048 Santa Ana, CA 92702-4048</p>	
<p>Subject: Notice of Availability for Recirculated Portions of EIR No. 564</p>	
<p>Dear Mr. Britton:</p>	
<p>Irvine Ranch Water District (IRWD) has received the subject notice and reviewed the document. IRWD responded previously to environmental notices and documents (letters enclosed). IRWD will provide the property with domestic water and wastewater service.</p>	5.1
<p>As a part of our review, we recognize Judge Warren C. Conklin's Statement of Decision number 12, which notes that one mitigation measure to coordinate with utility agencies will render the impacts (identified in EIR 564, Section 5.11.2) insignificant is not an apparent "nexus." However, we interpret coordination to include full compliance by the County with the Rules and Regulations of IRWD, as well as any determination regarding the need to expand facilities and agreement by the County to pay its fair share cost of these facilities.</p>	5.2
<p>As mentioned in our earlier responses, it is important to emphasize that the project will be a candidate for reclaimed water use if it becomes available to the site. In addition, the existing water and sewer service agreements for the property will need to be amended or replaced to define the terms of the new service.</p>	5.3
<p>IRWD appreciates the opportunity to review the EIR and provide comments. Should you have any questions or require additional information, please contact Dick Diamond, Senior Planner at (949) 453-5594.</p>	
<p>Yours truly, </p>	
<p>Richard B. Bell, P.E. Manager, Planning and Resources</p>	
<p>RBB/GKH/RP</p>	
<p>Enclosures</p>	

Response to Letter 5:

- 5.1 Comment so noted.
- 5.2 The County intends to fully comply with the rules and regulations of the Irvine Ranch Water District (IRWD) and also agrees to pay its fair share of facility expansion or facility establishment. The response prepared by the County in 1996 to the October 3, 1996 letter from the Irvine Ranch Water District clearly addresses this issue.
- 5.3 Please see response to Comment 5.2. The response provided by the County to the IRWD letter of October 3, 1996 supports the use of reclaimed water on the site and commits to work with IRWD regarding this issue. As noted in the County's 1996 response, nonpotable water (including reclaimed water) can be put to a variety of uses on the jail site and on agricultural areas outside the jail site, and therefore is a source of cost reduction important to the County's consideration.

*Forwarded to Culbertson
on 10.7.96*



IRVINE RANCH WATER DISTRICT

15600 Sand Canyon Ave., P.O. Box 57000, Irvine, CA 92618-7000 (714) 453-6300

October 3, 1996

L1003GKH

Paul Lanning
Project Manager
EMA Environmental and Project Planning
300 N. Flower St., Room #321
P.O. Box 4048
Santa Ana, CA 92702

Subject: Draft Environmental Impact Report for Expansion of James A. Musick Facility;
Relocation of Interim Care Facility; Sheriff's Southeast Station

Dear Mr. Lanning:

Irvine Ranch Water District (IRWD) has reviewed the Draft Environmental Impact Report (DEIR) for the subject project. IRWD staff have analyzed the impacts as reported in the DEIR and compared them to internal studies prepared based on the proposed expansion plans. The comments below are categorized by the services IRWD provides for the subject property, domestic water, nonpotable water, and wastewater (sewer). The project has been evaluated based on both the first phase of expansion, incorporating an additional 864 inmates, and the "worst case" scenario of 7,584 inmates as projected in the DEIR. In addition, a section covering mitigation measures to be incorporated into the DEIR has been included.

Domestic Water: IRWD water facilities are adequate to serve the expanded facility to its ultimate buildout. As recommended in the previous response to the Notice of Preparation (NOP), a system with connections at either end of the property would provide the greatest reliability. IRWD calculations generally concur with the findings of the DEIR regarding the ultimate water demands of the project.

Nonpotable Water: Nonpotable water (including reclaimed water) is used throughout IRWD for nonpotable water purposes. These include landscape irrigation, agriculture and dual-plumbed buildings. In the response to the NOP we requested the project be evaluated for the potential and likely possibility for nonpotable use. Our review did not uncover this evaluation. Consequently, we are reinitiating our request the project be evaluated for nonpotable use for any agricultural, landscape or building purposes. Nonpotable water may become available through two sources existing in close proximity to the project site. The facility was previously served with nonpotable water from a currently inactive service located at the northwest end of the property, close to the existing domestic water connection. In addition, IRWD has reclaimed water facilities to the south in the vicinity of El Toro Marine Corps Air Station. Either of these are likely to become viable sources in the future, especially as the expansion plans appear to take place over the next ten years.

Wastewater (sewer): The DEIR correctly points out deficits in the IRWD sewer system relative to the proposed ultimate buildout of the Musick facility. However, it incorrectly assumes that improvements are needed for the system "irrespective of the jail expansion." This statement is based on ongoing studies evaluating the potential for diverting upstream sewage flows from the Portola Hills area to IRWD's sewer system. No decision has been made on the disposition of these flows at this time. If and when IRWD determines that such a diversion is warranted, the impact on facilities improvements and costs will be evaluated together with the Musick expansion.

In terms of the phased expansion of the facility, the DEIR references an evaluation of IRWD's sewer system prepared by Robert Bein, William Frost & Associates (RBF)(August 7, 1996). The DEIR states, "The evaluation concluded that the existing IRWD wastewater collection system is adequate to accommodate flows generate(d) by the project up to 3,840 inmates prior to the year 2000." In contrast, the evaluation which is included in Appendix K states that, "The existing IRWD wastewater collection system is adequate to accommodate additional flows generated by the Musick Facility expansion, through a breakpoint of 2,850 additional inmates." IRWD concurs with the conclusions of the RBF evaluation. Beyond 2,850 inmates, it may become necessary to increase sewage capacity by paralleling reaches of sewer pipeline that approach surcharge. Should this occur, the project proponent will be required to participate in funding design and construction of parallel sewers on a "fair share" basis. It should also be recognized the project proponent will be required to pay for the use of capacity in existing sewers, as well as acquiring treatment and disposal capacity.

Mitigation Measures: IRWD agrees with the general mitigation measures discussed in Section 5.11.3, item 51 of the DEIR. However, we request the following specific measures be included to assure IRWD requirements are met regarding administrative issues prior to development and construction.

1. The "Agreement for Acquisition of Potable Water Service from Irvine Ranch Water District for James A. Musick Facility" must be amended or replaced. This agreement allows for capacity in IRWD facilities to enable delivery of 0.27 cubic feet per second (cfs) of domestic water. The expansion and increased demand will require the agreement either be amended or replaced by a new agreement to reflect the expansion of the site, including project phasing and the payment of appropriate "fair share" capacity charges. As the project becomes clarified in terms of expansion plans, contact IRWD so that the appropriate service agreement can be drafted. Also, submit plans to our development services section for review and approval as soon as they become available.
2. IRWD Rules and Regulations require use of nonpotable or reclaimed water if it is available to the site. Therefore, each water use will be evaluated and IRWD will determine whether it will furnish potable or nonpotable water for the designated purpose.
3. The proposed expansion plans necessitate amendment or replacement of the existing IRWD/County Agreement for sewer service to the Musick property ("Agreement for Acquisition of Interim and Permanent Sewer Service by County of Orange for James A. Musick Facility from Irvine Ranch Water District"). The amended or replacement agreement should reference the inmate threshold from the RBF study (2,850) and outline costs for the use of existing sewers, potential future sewer improvements, and treatment and disposal capacity.

Mr. Paul Lanning
EMA Environmental
October 3
Page 3

IRWD appreciates the opportunity to review and comment on the DEIR and recognizes the complexity of the project. Should you have any questions regarding these comments or wish to meet with our staff to further analyze the project, please contact Dick Diamond, Senior Planner, at (714) 453-5594.

Yours truly,

IRVINE RANCH WATER DISTRICT



Robert R. McVicker, P.E.
Principal Engineer

RRM/GKH/RP

cc: John Nagle - Robert Bein, William Frost & Associates



IRVINE RANCH WATER DISTRICT

15600 Sand Canyon Ave., P.O. Box 57000, Irvine, CA 92618-7000 (714) 453-6300

July 10, 1996

L0710RAD
ECO

EMA Environmental and Project Planning
Attn: Paul Lanning
P.O. Box 4048
Santa Ana, CA 92762-4048

Subject: Notice of Preparation of Draft Environmental Impact Report for Expansion of
James A. Musick Facility; Relocation of Interim Care Facility;
Southeast Sheriff's Station

Dear Mr. Lanning:

Irvine Ranch Water District (IRWD) has reviewed the Notice of Preparation (NOP) for the subject project. In addition, IRWD staff met with Ms. Andriette Culbertson and Mr. Michael P. Rudinica on July 1, 1996 who represented the County's interests in the project.

The project is within the IRWD service area. IRWD presently provides domestic water and wastewater service to the site and has also previously provided untreated nonpotable water. Domestic water is served to the site through two connections located at the northwest corner of the property (see enclosed maps). The presently inactive connection for untreated nonpotable water is also located in this area. Sewer service is provided through a single connection located along the southern edge of the property. As shown on the maps, IRWD has additional facilities located in the vicinity of the subject property. All IRWD facilities must be protected in place or relocated (with District approval) during expansion activities on the Musick site. IRWD intends to provide water and wastewater service to future uses on the project site as approved by appropriate jurisdictions and the IRWD Board of Directors.

The preliminary evaluation of the water and wastewater demands for the proposed project indicate a need for additional offsite facilities to adequately serve the "worst case" project as described in the NOP. Specifically, IRWD has concerns about the capacity of the existing sewer system downstream of the site to accommodate anticipated wastewater flows. However, as recommended in the NOP and discussed with Ms. Culbertson and Mr. Rudinica, the expansion of use on the site is likely to occur in three phases, with the first phase adding approximately 864 people. In addition, Mr. Rudinica indicated he has data showing sewage generation rates significantly lower than those assumed by IRWD. These factors may reduce or eliminate the need for additional facilities, particularly as they relate to the proposed initial phase of expansion.

Domestic water facilities appear to be adequate to serve the project through its final phases. However, depending on ultimate design of the expansion and the on-site facilities, it may be prudent to consider relocation of service(s) to increase system reliability (i.e., provide a looped

Mr. Paul Lanning
EMA
July 10, 1996
Page 2

system). In addition, the use of capacity exceeding the present IRWD/County agreement for the Musick site (see below) will require the purchase of additional capacity by the County.

As noted above, IRWD previously provided the Musick site with nonpotable water to serve agricultural uses. The connection has since been abandoned due to damage to the pipeline and the prohibitive cost of repair, and IRWD replaced the service with the second potable service mentioned above. Nonpotable water including untreated water and reclaimed wastewater is used throughout IRWD for landscape and agricultural irrigation, recreational impoundments and dual-plumbed buildings for flushing toilets and urinals. Presently, reclaimed water service is unavailable to the site. However, such service may become available in the future, or the nonpotable connection may be reactivated. Due to the likelihood of a nonpotable source becoming available in the future, IRWD requests the DEIR evaluate the use of nonpotable water for the remaining twenty-four acres of agriculture, any landscape irrigation, and toilet/urinal flushing in new buildings through construction of an onsite dual distribution system and dual plumbing of all buildings. Other standard water conservation measures such as low water use fixtures and drought tolerant landscape should also be included in the project.

IRWD and the County have existing agreements for water and sewer service to the Musick site. The "Agreement for Acquisition of Interim and Permanent Sewer Service by County of Orange for James A. Musick Facility from Irvine Ranch Water District" allows a daily discharge of 0.03 million gallons per day (MGD) of sewage. IRWD records indicate the facility currently exceeds that flow. The "Agreement for Acquisition of Potable Water Service from Irvine Ranch Water District for James A. Musick Facility" allows for capacity in IRWD facilities to enable delivery of 0.27 cubic feet per second (cfs) of domestic water. The agreement was based on a planned population of 1,500 inmates plus staff. Both the sewer and water agreements will need to be amended, or replaced by a new agreement, to reflect expansion of the site, including proposed project phasing.

IRWD appreciates the opportunity to comment on the NOP and looks forward to issuance of the DEIR. IRWD requests a copy as soon as it becomes available for review. In addition to this review, our staff will review the forthcoming information to be provided by Mr. Rudinica and revise the preliminary evaluation of demands, as appropriate. Should you have any questions or require additional information in the interim, please contact Dick Diamond, Senior Planner, at (714) 453-5594.

Yours Truly,

IRVINE RANCH WATER DISTRICT

Robert R. McVicker

Robert R. McVicker, P.E.
Principal Engineer

RRM/RAD/RP

**Comment Letter 6:
David Melvold**

Mr. George Britton, Manager
PDSD/Environmental & Project Planning Services
County of Orange
300 North Flower Street, Room 321
P. O. Box 4048
Santa Ana, Calif. 92702-4048

David Melvold
24 Sonrisa
Irvine, Calif. 92620
September 28, 1998

RECEIVED

SEP 29 1998

Environmental & Project Planning Services Division

Re.: Recirculation of Portions of
EIR 564 Musick Jail Expansion

Dear Mr. Britton:

The following comments are submitted in response to the Recirculated Portions of EIR 564 [Recirculation] for the Musick Jail Expansion:

1. If the County currently saves an estimated \$549,000 [Page 9] on produce due to the farming efforts on site, with a reduction of 14.71 acres, or roughly 38% of the farmland, the County could expect a proportionate reduction in savings of \$208,000 annually. This was not mentioned in the discussion. That being the case, maybe the County ought to be able to buy a significant amount of land for \$208,000 in annual savings if the production level is retained. At least the County would not have to put up the full amount from the capital expenditure funds for purchasing of land. 6.1
2. Strange that, while the County is proposing to increase the jail population, the County is simultaneously recommending an alternative that could result in reduced farm production. The population of the jail would increase several fold yet there is no mention of a possible increase in savings from maybe further increases in production of food and the need for far more food with the additional population. Maybe this could result in far greater savings which would provide funds for the purchase of even more farmland. 6.2
3. Regarding the possible future conveyance of 40 acres from the Navy, since the County has no final say on this matter and the decision will not be made prior to any decision on this EIR supplement, it should not be included as a feasible or viable mitigation alternative, only as a possibility. 6.3
4. With the increased jail population, will the level of food support to Orangewood Children's Home and the juvenile system be reduced? If so, what will be the estimated food replacement costs to these systems? There is no discussion of the consequences to these agencies. 6.4
5. On Page 8 the County states that potential farmland off-site but proximate 6.5

Response to Letter 6:

- 6.1 As reported in the recirculated portions of EIR 564, the County does not need to purchase land for agricultural production, in that the Local Redevelopment Authority (LRA) has already made a recommendation to the Department of Defense to approve the Sheriff's request to convey 40 acres of agricultural land adjacent to the jail for farming. Therefore, the County does not expect any reduction in savings at all, and rather expects to have increased savings from the increased agricultural land keeping pace with the ever-expanding jail population.
- 6.2 Please see response to Comment 6.1. The increase in jail population is being augmented with an increase in agricultural land.
- 6.3 The conveyance of 40 acres of land from the federal government has been approved by the LRA, and it is expected that the federal government will approve the conveyance request. Therefore, it is considerably more than a "possibility." Nonetheless, the County has disclosed the potential adverse effects in the event that, for some reason, the conveyance does not occur. This statement is made on page 25 of the recirculated portion of the EIR.
- 6.4 There is no level of food support which will be reduced to Orangewood Children's Home in the juvenile system. The jail system produces food for its own use. Any extra food that cannot be used by the jail is passed on to others in the County facilities, such as Orangewood. However, this is not relied upon by Orangewood and is simply a way of disposing of any surplus. In addition, the consequences to the referenced agencies — even if there were any — are not reviewable under CEQA, since no substantive environmental issue is presented by this situation.

September 26, 1998

adjacent to the jail would have a market value in the range of \$300,000 to \$600,000 per acre. Though the County uses the minimum number of \$300,000 [Page 14] to calculate the estimated cost for the replacement farmland, it is highly unlikely that if the land is adjacent or even close-by that it would have these high market values being adjacent or near to a HIGH SECURITY JAIL, especially of this size -- the largest in the State system. There is no data furnished on the impact of the siting of a jail on the market value of adjacent real estate to justify the County's assumption in this regard.

6.5

6. [Page 12] I note with consternation that the County's acknowledgement this time around in the Recirculation in the 3rd conclusion that "the temporary loss of land for construction staging, relocation, or expansion activities is a temporary SIGNIFICANT adverse impact ...". In response to Comment #12 in my October 3, 1996 letter to the original DEIR, I questioned how the agricultural activities would continue uninterrupted during construction since the majority of the 22 acres will not be available until the existing jail facilities are torn down yet initial construction of Complex 1 and buildings along southerly boundary will terminate most of the existing farming while further it was stated that the existing inmates will not move until Complex 2 is completed. The County responded that "since the project will be built in phases, agricultural acreage will always be available for farming. It is possible to continue the farming on-site to a great degree when the project is phased in this manner." Now with the County's statement in this revision, it is evident that that previous statement by the County was not correct!

6.6

7. [Page 12] No. 4 of the County's conclusions should be qualified to state that the mitigation will be successful only if the County is successful in its subsequent request to the Navy for conveyance in a timely fashion.

6.7

8. Would there be any possibility that the County may have to pay for the land conveyed for use as farm land? If the County is skeptical that it could not condemn private land for this use since it is questionable as to its being able to show public need and necessity [Page 17], why would it be out of the realm of possibility that the Navy might expect some compensation for conveying the land to the County for the same farming use? The County will be using the land to compete with private farms. This possibility is not touched upon by the County's discussion.

6.8

9. [Pages 14-15] The County's "historical" discussion under the Analysis of Mitigation Measure No. 2 appears to grant the County staff an opportunity to lash back at the electorate for imposing measures which limit its ability to tax freely without limitation. The treatise is unnecessarily lengthy and detracts from the main issue of finding the funds for any and ALL of the capital cost of the project -- including mitigation costs such as replacement farmland.

6.9

11. [Page 16] The County has a policy, "on the books" so to speak, in the General

6.10

6.5 The prior EIR (FEIR 564) described in detail the anticipated economic impacts — or lack thereof — from the siting of the jail at this location. In particular, the final responses to comments contained a foreword wherein certain current themes and project comments were addressed. One of these was "social and economic effects" and shows that the economic effects were studied by an expert economist and analyst, and the jail was found to have no effect on the property values, contrary to the speculation of many commenters. Therefore, there is no reason to believe that land would be less valuable than the estimate by the County (which was on the low end of the range in an abundance of caution). The reason this data is not repeated in the recirculated provisions is that this is not required by the CEQA Guidelines (§15088.5) nor by the Statement of Decision by the court.

6.6 There is no inconsistency in the response to Comment 12 in the commenter's October 3, 1996 letter to the original Draft EIR and the reference comment on page 12. Agricultural acreage *will* always be available for farming, and there are non-agriculturally utilized areas of the jail which may be utilized for construction staging if avoidance of the agricultural land is desired at the time. Furthermore, upon the departure of the military from the El Toro base, it is anticipated that the lease for the 40 acres adjacent to the jail will be able to be implemented. In view of the fact that the County controls the water source in that area, the County in the near term will have a *surplus* of agricultural land, regardless of construction staging.

6.7 The County believes that the qualification on the anticipated acquisition of 40 acres for cultivation is evidenced by the use of the word "attempted." Further, on page 25, the County acknowledges that if, in spite of its best efforts, it is not able to obtain the 40-acre conveyance, the project's impacts to cultivated land would remain significant.

- 6.8 It is not expected that the County will have to pay for the land conveyed for use as farmland. Further, the County is not using the land to "compete with private farms." As explained in the original EIR and also in the recirculated provisions, the County supports the feeding of the jail population with its agricultural pursuits. At this time, it is not expected that the conveyance will require compensation.
- 6.9 An EIR is an information document, and these recirculated provisions also fulfill that function. There is no attempt by the County to "lash back at the electorate," and the discussion is an attempt to explain the role of the General Plan, tax limitations and funding constraints as applied to a discussion of the feasibility of this mitigation measure.

Plan "...to encourage...the preservation and utilization of agricultural resources as a natural resource and economic asset" to the extent feasible. But what specific efforts does the County undertake to carry out this policy? The loss of agricultural lands to development rarely if ever comes up in discussions by the County's decision-makers as worthy of consideration when approving development projects.

6.10

11. [Page 17] Ironically, the County considers as a realistic security risk the additional increased possibility of escape from the transporting of MINIMUM-security prisoners to fields should the fields be located other than as currently adjacent to the jail. However, in response to the community's expressed concern about the transporting of HIGH-security prisoners to and from the courts, the County considered the risk as insignificant at most even though high-security prisoners have a more compelling urge to escape! Regarding the need to return inmates to the jail for noon meal, why couldn't the inmates be provided a bag or box lunch which they take with them or is provided to them in the field?

6.11

12. It is apparent from the various analysis discussions that the County views the need for mitigation of lost farmlands as an auxiliary feature or luxury and not simply an integral part of the cost of the proposed expansion project.

6.12

13. [Page 21-22] It should be noted that the equivalent to the Transfer-of-Development Rights [TDR] Program has been successfully implemented right in the County's midst with the Open Space Agreement executed between the City of Irvine and The Irvine Company. In this case, the sender and receiver of the density transfer is one and the same — The Irvine Company. Although, the analysis states that TDR Programs are designed to facilitate transfers of development rights between the owners of private properties, in the end, the City of Irvine will be deriving open lands. The County (or actually its residents) might benefit from an investigation into the use of such planning processes to facilitate means to preserve agricultural lands.

6.13

14. [Page 25] Contrary to the conclusion that the County go with Mitigation Measure No. 1 only, the County should adopt a fallback mitigation measure which would achieve the same level of mitigation as anticipated with Measure No. 1 should Measure No. 1 fail to become a reality. The County should not be able to adopt a "hypothetical" dream or wish as a legitimate mitigation measure.

6.14

15. The aircraft noise and particulate generation from an El Toro commercial airport may render the the farmland useless without mitigation measures (ear-plugs, air filters or breathing apparatus, etc.) as it may not be appropriate consideration of the health risks imposed on the prisoners to continue the farming.

6.15

16. [Page 26] In the second paragraph, the misleading statement is made that the "FEIR 564 already contains in its noise, air quality, and traffic assessments the

6.16

6.10 This is an expression of opinion concerning County development approval policy. The County has attempted to implement the referenced General Plan provisions in a number of ways, including the request for conveyance of 40 acres from the El Toro base. The county also — until Proposition 13 made this a less useful tool — regularly entered into Williamson Act contracts to preserve agricultural land in the near term.

6.11 As explained on page 17 of the recirculated sections, the risk of escape — to the limited extent that it exists — relates to the inmates working on fields distant from the jail, and not the fact that inmates would have to be transported to and from the fields. It is possible to provide noon meals on site if there was a remote field being worked, but it was deemed prudent to disclose the possibility of being transported back for the noon meal in the interests of disclosing the minor additional impact on air quality.

6.12 This is an expression of opinion with which the County does not concur. The request for conveyance of agricultural land on the base for the jail system predates the distribution of the Draft EIR in this case.

6.13 The County notes the commenter's encouragement of the uses of TDR programs to arrange development rights in such a way as to preserve agricultural lands.

6.14 The 40-acre public benefit conveyance as part of the MCAS El Toro Community Reuse Plan is not a "hypothetical dream or wish" but rather an approved conveyance that requires only the approval of the Department of the Navy and the cessation of military operations. Therefore, it is a reasonable measure to rely upon. However, the County has also found that, if the conveyance does not occur, impacts will be significant.

- 6.15 Inmates and farm workers have been working in the agricultural areas surrounding the El Toro military airport for over 50 years. The County is aware of no specific health problems experienced by the workers due to this environment. Historically, the noise, air quality and other interruptions have been much more significant than will be obtained under a commercial airport when compared to military aircraft operations. Please see EIR 563 sections on Noise and Air Quality for comparison purposes.

cumulative impact of all projects which are intended to be undertaken in combination with a jail between the time of the writing (1996) and the year 2020. It did not include the impacts associated with the El Toro Reuse. This exception should be clearly stated in this paragraph.

6.16

17. [Page 27] If the FEIR 564 already evaluated the situation without the El Toro Reuse Plan being included, was the baseline for open space in the El Toro MCAS territory or for the then-existing and operating Marine Corp air station? If the latter, the traffic, etc. associated with the air station needs to be subtracted to get the true baseline for open space.

6.17

18. [Page 32] What specific year is assumed for the "interim year"?

6.18

19. [Page 46] The conclusion that "...the results of a cumulative analysis with respect to the ETRPA Non-Aviation Plan...would be similar to the results reached in this study with regard to the El Toro CRP" is unfounded. The CRP would have more traffic to and from the site -- even more so with the recently revised "Green" CRP plan -- since the market for the airport is considered to reach even Ventura whereas the Non-aviation Plan will have a greater portion of localized trips or shorter trips.

6.19

20. [Page 46] It would appear to be inappropriate to reference as some sort of accurate and factual document the El Toro Reuse EIR 563 since it has been Court-decreed to be deficient in precisely the area of off-site circulation impacts and mitigation improvements. Consequently, any specific traffic mitigation committed to within the CRP is most likely inadequate.

6.20

21. [Page 47] Why is an agreement required between the City of Irvine and the County for improvements on Alton Parkway for fair share costs? How does the City of Irvine share in this obligation? The basis of this City obligation is not indicated.

6.21

22. [Page 48] The listing in the last paragraph of "common sources of local quality problems" should also include aircraft emissions from local airports such as the proposed El Toro International.

6.22

23. [Page 51] Why does the cumulative regional impacts for Air Quality consider a 38 MAP El Toro airport yet the Traffic and Circulation Impacts consider an airport of only the current CRP plan of 23.3 MAP? The change and possible consequences in the findings is not discussed with this Recirculation.

6.23

24. [Page 51] What number of air operations was assumed to exist at present for MCAS El Toro in determining the existing air pollution generation from military air operations? What was the source of the operations data?

6.24

6.16 The commenter's objection is not understood. The referenced sentence clearly states that the projections did not include the El Toro Reuse Plan.

6.17 The basis for the traffic study on the original EIR was the Marine Corps operation of the air station. That traffic was subtracted from the traffic study presented in the recirculated section in order to present a true "open space" or "vacant" condition on the base.

6.18 The words "interim year" do not appear on page 32 of the recirculated EIR. This comment asks for information which is already stated on page 32 of the REIR. Therefore, the comment raises no new or expanded environmental issue or information.

The commenter is referring to the words "interim development condition" and "interim condition" which, as stated on page 32 of the REIR, is the future point in time which would coincide with "completion of construction and full occupancy of the Musick Jail Expansion" and the two alternative assumptions for the El Toro Community Reuse Plan state on page 32 as follows:

"(a) MCAS El Toro is closed by the U.S. Marine Corps on or about July 1999, but no redevelopment plan is implemented for the base upon completion of full occupancy of the jail expansion project.

"(b) MCAS El Toro is fully redeveloped and occupied according to the Board of Supervisors selected Reuse Plan including an international airport after full occupancy of the jail expansion project. This represents a worst case scenario."

As stated, these assumptions represent a "worst case scenario" — that is, the assumptions represent the extreme, opposite boundaries of the possible development and phasing of the El Toro CRP (i.e., nothing is developed or the entire CRP is developed concurrent with the Musick Jail Expansion project).

6.19 This comment is not understood. The El Toro Community Reuse Plan, as evaluated herein, has less traffic associated with its implementation than does the non-aviation plan as presented by ETRPA at the time of publication of this document. This evidence is presented in Table 8. The revised Alternative Concept C of El Toro recently proposed by the County (which reduces non-airport-related land uses substantially) would even widen the gap in traffic between the ETRPA non-aviation plan and the Community Reuse Plan. Therefore, the cumulative impacts analysis would be similar.

6.20 The El Toro Community Reuse Plan EIR is a “first tier” EIR and accurately represents information at a general plan level of analysis. It is irrelevant to this recirculated EIR that the CRP EIR was found deficient in certain aspects by a reviewing court, since this recirculated portion independently evaluates traffic and mitigation.

This comment is the commenter’s interpretation of the Superior Court’s decision re Final EIR 563’s traffic impact and mitigation methodology. The County disagrees with this interpretation. The comment does not raise a new or expanded environmental issue or new information.

The reference to FEIR 563 on page 46 of the REIR illustrates the foregoing sentence on page 46 which concludes:

“With respect to Alton Parkway south of Rockfield, in light of the limited impacts directly attributable to the jail expansion project, it is beyond the scope of this document to design and implement a mitigation program for traffic impacts which may result from implementation of the El Toro Reuse Plan — that responsibility lies with the Reuse Plan.”

The reference on page 46 to FEIR 563 is intended only to confirm the Reuse Plan’s responsibility for traffic mitigation. The scope and extent of the mitigation may be subject to further definition, but the responsibility for such mitigation is not disputed by FEIR 563.

- 6.21 The arterial highways which require mitigation are located within the boundaries of the City of Irvine, and therefore the design and construction of highway improvements are within the City's jurisdiction in most instances.

It is customary that agreements are entered into between multiple jurisdictions for fair share of improvement costs. This is because the improvement identified is not merely for the project but for the project taken in combination with the cumulative effect of other development outside the County's control, such as in the City of Irvine. As is customary with agreements of this kind, the City of Irvine shares in this obligation by the payment of fees or participation in the construction costs. The City obligation would be based on its contribution to traffic through development approvals in its city.

- 6.22 The air quality analysis for cumulative impacts also includes aircraft emissions later in the discussion.

Contrary to what many people believe, there is very little documentation that airports are a significant source of local air quality impacts. Studies done prior to the early 1980s, which is before the implementation of emission regulations, did show local impacts around airports. However, few studies have been conducted since the implementation of the emission regulations. Perhaps the best summary of the research is "Air Quality Measurement in the Vicinity of Airports," (Alistair I. Clark, et al., Environmental Pollution Series B, Applied Science Publishers Ltd.). (This reference is included in EIR 563.) The author of that article summarizes the situation as follows:

"Airports are a complex and large source of CO, NO_x, HC and particulates. However, measurement studies have demonstrated that concentrations at airports are generally similar to urban areas. Where violations of air quality standards or guidelines have been recorded, airport related sources are not indicated to be the major contribution."

Therefore, it would be in error to list airports with the common sources of local air quality problems.

- 6.23 The comment is in error; therefore, no changes or additions are required to the REIR. The Cumulative Traffic and Circulation Impact Analysis Section of the REIR (page 28) is based on two development scenarios for MCAS El Toro — (a) no development or open space and (b) Alternative A (see page 29 of the REIR) of the Community Reuse Plan (approximately 38 million annual passengers) selected by the Local Redevelopment Agency (LRA) in December 1996 — not a 23.3-million-annual-passenger (MAP) airport as stated in the comment. As noted above in the response to Comment 18, this provides the extreme boundaries (including worst case) of possible cumulative traffic impacts.

Regarding cumulative air quality impacts, the REIR examines two similar alternative scenarios (see page 51 of the REIR) — that is, (a) no development of MCAS El Toro and (b) an approximately 38 MAP commercial airport. In addition to these alternatives, the REIR includes a third scenario for cumulative air quality impacts which addresses a 23.3 MAP airport. Therefore, this comment does not raise new or additional environmental issues or information.

- 6.24 This comment is completely addressed in EIR 563 and only applies to the CRP, as opposed to the jail expansion project. The commenter is referred to EIR 563. 1994 military operations were chosen as the most recent information available at the time. The 1994 operations data was very close to the 10-year average at that time.

September 28, 1998

25. [Page 51] Though, from a regional standpoint, an El Toro commercial airport may act to redistribute operations between basin airports, it is not factually known that it will not generate new flights. This is a rash and unsubstantiated assumption. More critical, however, is the fact that an El Toro commercial airport will most certainly result in a concentration of emissions from air operations in the local vicinity of the airport and the jail-- an effect on the environment not addressed in this Recirculation.

6.25

26. [Page 51] The Recirculation's statement that there will be "a decrease in motor vehicle emissions since passengers will have to travel a shorter distance to reach El Toro commercial airport" than would otherwise occur without its existence, is totally fallacious and without verifiable proof. Again, the CRP assumed markets as far away as Ventura! Additionally, the emissions of vehicles of passengers will be concentrated inversely with distance from the El Toro commercial airport, i.e., higher concentrations near the jail.

6.26

27. [Page 52] Though as the stated in the report that "there will not be any cumulative regional impacts due to a the combination of either the El Toro Reuse Plan or No Development Plan plus the proposed jail expansion", there most certainly will be local impacts and these most certainly can not be ignored. The residents of Irvine and Lake Forest breathe local air, not "regionally-averaged" air!

6.27

28. [Page 52] The AQMP projections and the Reuse Plan EIR do not confirm that the Reuse Plan will not generate additional commercial aircraft operations in the region, these two only both assume the same result. Also, regional operations is not synonymous with commercial operations at El Toro -- the latter of which the Recirculation is to assess in combination with the jail expansion. The true effects of El Toro Reuse and the jail expansion are being hidden in the evaluation on a regional basis. Expand the study area of almost any EIR on any proposed project and the results will be little to no measurable impact. Local residents receive little comfort that their wellbeing is not seriously being considered in this deceitful strategy.

6.28

29. [Table 10, Page 53] It is unreasonable to accept the levels given for particulates for military aircraft versus commercial aircraft operations. The most recent daily operations for the military aircraft can not possibly generate almost the same amount as the future anticipated commercial aircraft operations -- 64 versus 70 pounds per day. These numbers are highly suspect.

6.29

30. [Page 58] Under Conclusion 1, it can not be stated as fact that should the County elect to sell the Musick site that the cumulative impacts will be worsened. At most, the statement can be made that it could be worsened.

6.30

I appreciate receiving a copy of the EIR Recirculation and the opportunity to forward to

6.25 The comment includes the author's opinion on the validity of the assumptions. The analysis based on aircraft operations being distributed between basin airports is currently the best information available. In addition, the second part of the comment is in error -- the REIR clearly addresses the local concentration of emissions from proposed commercial aircraft operations. Table 10 of the REIR at page 53 includes the local emissions due to commercial aircraft, motor vehicle traffic generated by the proposed airport, and the proposed project. Off-site local air impacts from aircraft operations will need to be mitigated. If they cannot be mitigated, the FAA cannot issue operating permits. Also see response to Comment 6.22.

6.26 This comment is addressed in EIR 563. The analysis that was done assessed the redistribution of aircraft flights throughout the Southern California area. Residents from Ventura would be coming into that market area, and must be considered in the analysis. However, the number of residents coming from Ventura to El Toro would be negligible. Cumulative local air quality on the roadways local to the jail are discussed in the REIR on page 49.

It is also noted that the commenter is in error regarding average trip length projected for the proposed commercial airport. FEIR 563, Technical Appendix Volume 4, *Air Quality Assessment*, Air Emissions Calculations, page 1 shows an average trip length of 10 miles for Alternative A of the CRP.

6.27 The recirculated portions of the EIR cover both local and regional impacts. Local impacts are discussed on page 49. See also response to comments 6.22 and 6.25.

Mr. George Britton

- 6 -

September 28, 1998

input. Please let me if there will be any public hearings of a sort on the Recirculation or what the process will be for the Recirculation. Should you have any questions, I may be reached on (714) 669-0664.


Sincerely,


David J. Melvold

- 6.28 Two alternative analyses are provided that address the cumulative impacts. The second analysis is based on aircraft operations corresponding to 23.3 MAP being added to the air basin. This analysis is exactly the type of analysis that the commenter seems to desire. However, the recirculated portions of the EIR do state that the first alternative is believed to be the more correct approach.
- 6.29 The military operational emissions shown in Table 10 represent 1994 levels of operation. The 1994 data was the most current available at the time of the preparation of EIR 563, and the appropriateness of its use is discussed extensively in EIR 563. Second, the 70 pounds per day for commercial aircraft operations is probably understated and the reasons are discussed in EIR 563. Essentially, according to the Federal Aviation Administration, there are no reasonable emission factors available for particulates for some of the aircraft that may fly out of El Toro.
- 6.30 There is no question that the sale of the Musick site for development such as exists in the adjacent City of Irvine would produce increased cumulative impacts. A 100-acre business park would undoubtedly result in significantly more traffic than a 100-acre jail. This has been evaluated several times throughout this process, and therefore the conclusion can be reached with confidence.

Comment Letter 7:
City of Anaheim

SEP 30 '98 05:01PM PLAN. & DEV. SERVICES P. 2/2



CITY OF ANAHEIM, CALIFORNIA
Planning Department

September 25, 1998

Mr. George Britton, Manager
PDSD/Environmental & Project Planning Services
300 North Flower Street, Rm. 321
P.O. Box 4048
Santa Ana, CA 92702-4048

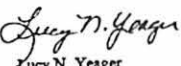
RE: Notice of Availability for Recirculated Portions of EIR No. 564 - James A. Musick Jail Expansion and Operation, County of Orange

Dear Mr. Britton:

Thank you for the opportunity to review the above-referenced document. City staff have reviewed the Recirculated Sections of Environmental Impact Report No. 564, James A. Musick Jail Expansion and Operation and have no comments at this time.


Please forward any subsequent public notices and/or environmental documentation regarding this project to my attention at: City of Anaheim, Planning Department, Room 162, 200 S. Anaheim Boulevard, Anaheim, CA 92805.

Sincerely,


Lucy N. Yeager
Senior Planner

RECEIVED
SEP 30 1998
ORANGE COUNTY PDS
ENVIRONMENTAL & PROJECT PLANNING
SERVICES DIVISION

200 South Anaheim Boulevard
P.O. Box 3222, Anaheim, California 92803 • (714) 765-5139 • www.anaheim.net



Response to Letter 7:

- 7.1 Comment so noted. The City of Anaheim is on all notice lists, and the contact person will be added as requested.

**Comment Letter 9:
Jim Richert**

Mr. George Britton, Manager
PDSD/Environmental & Project Planning Services
300 North Flower St. Rm. 321
Santa Ana, Ca. 92702-4048

September 30, 1998

Subject: EIR No. 564 - Musick Jail Facility

Dear Mr. Britton:

The traffic data in the Recirculated Portions of EIR No. 564 regarding the Musick Jail Expansion is flawed and the conclusions erroneous.

The table on page 36 "Interim year ADT volume etc." indicates traffic volumes on Bake Parkway that are obviously out of date and are in conflict with more recent data collected by the City of Lake Forest, as shown on the attachment marked as "A" and summarized below:

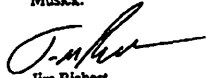
Location	EIR ADT Volume	City of Lake Forest ADT Volume (7/96)	Percent Difference
Bake north of Muirlands	30,000	50,100	+67.0%
Bake north of Jeronimo	32,000	39,200	+22.5%
Bake north of Toledo	37,000	37,400	+ 1.1%

As noted above, there is a huge difference between the Bake Parkway traffic volumes in the EIR and the more current counts conducted by the City of Lake Forest in July 1996. This is quite logical because it is likely that the EIR traffic volumes on Bake were counted prior to the opening of the Bake Parkway and 5 Freeway interchange in April 1996.

No matter how you slice it, the addition of more traffic to Bake as a result of the Musick Jail project will additionally impact Bake Parkway, and specifically the intersection of Bake and Trabuco in the City of Lake Forest, which is already heavily congested. In addition, air pollution will also be increased for the nearby residents beyond that indicated in the EIR.

On page 37, the EIR indicates that the project adds to the impacts of Alton Parkway at various intersections. Although this may be true, the larger impact is to Bake Parkway and the noise pollution to the residents along this street, and the EIR's use of old and invalid traffic counts has led to several incorrect conclusions. The EIR should also be updated to show realistic future traffic counts on Bake Parkway between the freeway and Foothill Ranch, as the result of a huge increase in the development of industrial and commercial uses in Pacific Commerce Center along Bake Parkway in the City of Lake Forest.

The combination of incorrect current traffic counts on Bake and the failure to adequately determine realistic future traffic counts on Bake would seem to invalidate the conclusions of the revised EIR for Musick.


Jim Richert
24861 Via Del Rio
Lake Forest, Ca. 92630
(949) 458-6806

cc: B. Dunek, City of Lake Forest

RECEIVED

OCT 01 1998

Environmental & Project Planning Services

9.1

9.2

Response to Letter 9:

9.1 This comment was presented by this commenter in connection with the 1996 Musick Jail Expansion EIR. At that time, the County answered that the existing peak hour intersection volumes on Bake Parkway were counted in August 1996 and therefore the Draft EIR included relevant existing conditions data (see Response to letter dated October 4, 1996 from Jim Richert of JAM, Response to Comments page 57). Corroboration of these data in connection with the new cumulative impacts traffic study continues to indicate that the data used by the County for Bake Parkway is correct.

Even if this were not the case, as is reported on page 57 of the Response to Comments on FEIR 564, Bake Parkway has a capacity of 54,000 ADT between Trabuco and Muirlands, and a capacity of 72,000 ADT between Muirlands and the I-5 Freeway. The capacity of Bake Parkway, therefore, is sufficient to accommodate existing and projected traffic volumes, even if the commenter's data were correct. Therefore, the County disagrees with the commenter's interpretation of the validity of the data, and concludes that substantial evidence supports the County's conclusions regarding the data in this regard.

9.2 Please see response to Comment 9.1. In many ways, this comment reasserts the issues raised by the commenter in Comment 9.1. However, additionally, the commenter points to "increase in the development of industrial and commercial uses in Pacific Commerce Center along Bake Parkway." As is noted by the commenter, this development takes place in the City of Lake Forest and not in the jurisdiction of the County. The County took into account the traffic generated by Pacific Commerce Center during both the analysis of original FEIR 564 and the recirculated portions. However, it remains true that all of these volumes have been previously forecast, including that traffic originating with development in the City of Lake Forest. Therefore, the EIR analysis remains adequate.

Agenda Item - Bake Parkway Traffic Concerns

August 6, 1996

Page 4

the absolute capacity of the roadway; however, the desired capacity remains at LOS "C", which translates to 45,000 ADT.

A review of the records for the existing development located along Bake Parkway, specifically in the area between the OCTA/SCRRA Railway and Trabuco Road, indicates that four (4) Tract Maps were recorded between 1972 and 1978. Each of these recorded maps dedicated one hundred-twenty (120) feet of right-of-way along the property frontage for the development of Bake Parkway. These subdivisions eventually became known as the Lake Forest II Master Homeowners Association and Lake Forest Keys Homeowners Association. Although tentative map records were not found for all four maps, records found indicate that tentative tract maps were submitted, as early as 1971, with the Bake Parkway right-of-way dedication.

Traffic Volumes

In order to evaluate the impacts of the Bake Parkway/Interstate 5 ramp opening, traffic volume counts were taken on July 9, 1996, on Lake Forest Drive, Bake Parkway, and Trabuco Road. These counts were compared to counts shown on the County's 1994 Traffic Flow Map and counts taken in September and October of 1995 by Traffic Data Services for an unrelated traffic analysis. Both counts were taken prior to the construction and opening of the Bake Parkway interchange. This provides a comparison of before and after conditions on these arterials. The count location and volume data follow:

Location	Average Daily Traffic (ADT)		
	1994	1995	1996
Bake Pkwy. btwn. Trabuco and Toledo	21,000	20,600	37,400 ←
Bake Pkwy. btwn. Toledo and Jeronimo	20,000	19,100	39,200 ←
Bake Pkwy. btwn. Jeronimo and Muirlands	19,000	21,400	50,100 ←
Trabuco Rd. btwn. Bake and Lake Forest	33,000	24,700	25,100
Lake Forest btwn. Trabuco and Toledo	34,000	34,000	24,200
Lake Forest btwn. Toledo and Jeronimo	37,000	32,100	27,100
Lake Forest btwn. Jeronimo and Muirlands	43,000	36,200	26,400

These traffic volumes indicate a significant increase in traffic on Bake Parkway between Trabuco Road and Muirlands Boulevard since 1994. Traffic volumes also have decreased on Lake Forest Drive during the same period. The increased traffic volumes on Bake Parkway confirm that alternative routes to Interstate 5, and arterial connections under construction, are being utilized during the construction phase.

A review of the projected (Year 2020) traffic volumes, identified in the City's General Plan Circulation Element, indicates that buildout volumes on Bake Parkway will be

(A)

Table 4 (cont)
INTERIM YEAR ADT VOLUME/CAPACITY RATIO SUMMARY

ROADWAY	LANES	CAPACITY	NO-PROJECT VOLUME	V/C	W/MUSICK & W/O EL TORO CRP VOLUME	V/C	W/MUSICK & W/EL TORO CRP VOLUME	V/C
LAKE FOREST (cont)								
Tribuco s/o Bake ¹	6	56,300	27,000	.48	27,000	.48	42,000	.75
Tribuco w/o Lake Forest ¹	6	56,300	27,000	.48	27,000	.48	42,000	.75
Tribuco e/o Lake Forest ¹	6	56,300	41,000	.73	41,000	.73	49,000	.87
Tribuco s/o Ridge Route ¹	6	56,300	40,000	.71	40,000	.71	49,000	.85
Tribuco s/o El Toro	6	56,300	28,000	.50	28,000	.50	38,000	.67

¹ Included on the Congestion Management Plan (CMP) highway network

* Exceeds the established level of service performance standard (LOS "D" for non-CMP roadways, LOS "E" for CMP roadways)

Level of service ranges:

- .00 - .60 A
- .61 - .70 B
- .71 - .80 C
- .81 - .90 D
- .91 - 1.00 E
- Above 1.00 F

As the table indicates, the project itself measurably adds to the cumulative impacts at the following deficient highway links:

1. Alton Parkway south of Rockfield (deficient only in the "with El Toro CRP" condition)
2. Alton Parkway south of Muirlands (deficient with or without the project)
3. Alton Parkway north of Muirlands (deficient with the project and the CRP)

Alton Parkway south of Rockfield would operate at acceptable V/C ratios in the No Project and With Musick Jail Expansion conditions. Deficient V/C ratios would occur on Alton Parkway south of Rockfield only under the With CRP condition. Therefore, the proposed project would have no significant cumulative impact except in the context of the CRP at Alton Parkway south of Rockfield.

Alton Parkway south of Muirlands would operate at deficient V/C ratios in the No Project condition with or without the Musick Jail Project and/or the CRP. The Musick Jail Expansion and the CRP projects would each add measurable traffic to this deficient link. The highway improvements required for the No Project condition would also mitigate the Musick Jail Expansion and the CRP projects to acceptable V/C ratios.

Comment Letter 10:
City of Irvine



City Manager's Office

City of Irvine, One Civic Center Plaza, P.O. Box 19375 Irvine, California 92619-9375 (714) 724-8000

October 1, 1998

George Britton, Manager
PDSD/Environmental & Project Planning Services
300 North Flower Street, Room 321
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Santa Ana, CA 92702-4048

SUBJECT: RECIRCULATED PORTIONS OF EIR NO. 564 (JAMES A. MUSICK JAIL
EXPANSION)

Dear Mr. Britton:

We have reviewed the recirculated portions of EIR No. 564, and offer the following comments
for your consideration.

ADEQUACY OF THE RECIRCULATED EIR

Agricultural Land

Exhibit 1 is difficult to read, relative to the location of Prime Farm Land and urban areas. The
exhibit source and other references to "Department of Conservation" maps are also not properly
cited, making it difficult to identify the information source.

10.1

The document is not clear as to the Prime Farmland area that is available for cultivation, as it
merely provides the total area (inclusive of roads, buildings, etc.) and the total presently under
cultivation. The document needs to clearly state the total acreage of Prime Farmlands available
for cultivation (whether active or not), exclusive of roads, buildings and other structures, in order
to provide a clear picture of the impact. The issue of loss of agricultural land is not one of
production lands (as one is led to believe in the Recirculated EIR), but one of a loss of the
agricultural resources of Prime farmlands. The EIR needs to be revised accordingly to reflect
this important distinction, as this misinterpretation incorrectly slants the entire discussion.

10.2

PRINTED ON RECYCLED PAPER

Response to Letter 10:

10.1 The commenter's criticism of Exhibit 1 is unwarranted. Exhibit 1 has been prepared based on Department of Conservation maps which are well known as a technical support document in the planning community. Furthermore, the exhibit was produced in color photocopy form so the reader could better see at a glance the different uses on the property. As is noted in the text and in the exhibit, the area 2 "Existing Land Under Cultivation" is prime farmland, as is shown on the legend summary distinguishing between "prime farmland" and "urban and built-up land." Therefore, these divisions are not unclear. The Department of Conservation Land Use Mapping Section maps are referred to on page 9 of the REIR, and were included in the administrative record for the litigation filed in part by the City of Irvine against the County of Orange on the Musick jail.

10.2 This criticism is unfounded. As is clearly shown in Exhibit 1, prime farmland exists on the left side of the Musick site, as is depicted in the Department of Conservation maps. Table 1 on page 9 clearly depicts that the current prime farmland is 55 acres in size, with 36.71 of those acres available for cultivation. To state the amount of prime farmland not being utilized because of fences, roads, storage facilities or even the baseball diamond is to further diminish the impact, rather than to portray the impacts based on the prime farmland designation as well as the cultivated land. For example, Table 1 notes in Footnote 3 that approximately 1.65 acres of the land designated as prime farmland is a softball field. The REIR has painstakingly identified the relative divisions between map acreage and cultivated acreage, as well as some of the sizes of the facilities which occupy prime farmland. It is normal and necessary to have roads and storage facilities in large farmlands in order to access the crops, so this is not an unusual feature of the project.

Agricultural production is an important issue under CEQA. Appendix G(y) to the CEQA Guidelines addresses both converting prime agricultural land to non-agricultural use *and* impairing the agricultural productivity of prime agricultural land.

George Britton
Page 2

The acquisition of other Prime farmlands, whether in active cultivation or not, does NOT eliminate the project's "absolute loss of 33 acres". Furthermore, contrary to the author's statements in the introduction to Mitigation Measures, changing the ownership of Prime farmland between two public agencies has little or no bearing on the net loss of agricultural land, and it is therefore inappropriate for the County to consider the acquisition of EXISTING cultivated Prime farmlands as somehow "mitigating" the project's agricultural loss, unless it could be shown that the proposed farmland to be acquired would have been immediately lost to development without the proposed acquisition. It is considered unacceptable, therefore, that Mitigation Measure Nos. 2-7 only apply if the 40 acres of land is not conveyed. The document needs to either state that the loss of Prime Farmlands is an unavoidable significant adverse impact, or needs to commit to implementing one or more of the additional measures (nos. 2-7). In the alternative, the County should evaluate the feasibility of a mitigation measure that would impose a deed restriction to ensure that the land remains in agricultural use.

10.3

Using one's "best efforts" to mitigate an impact (Mitigation Measure 1) is not among the options provided in CEQA, as set forth in CEQA and reiterated in the document's preceding introductory paragraph. It is inconceivable that the County declares the loss of Prime farmland as "mitigated to an insignificant level upon implementation of Mitigation Measure No. 1". As noted in the above comments, Mitigation Measure No. 1 is not a valid measure due to noncommittal language, as well as it being inappropriate to claim change in ownership as "mitigation" for loss of Prime farmland (this does NOT off-set the loss of the resource).

10.4

Air Quality

The Resolution for the project approval must also include separate findings for air quality, including a discussion as to whether or not there are feasible alternatives to the project that would reduce or avoid the identified significant impact.

10.5

It should be noted that when the Superior Court invalidated EIR No. 564, it found the EIR deficient in its failure to adequately disclose air quality impacts. The new analysis still fails to provide what impact the mitigation measures will have on emissions. The cumulative impact analysis is still deficient in the recirculated EIR because it fails to adequately analyze quantitative impacts, and dismisses such quantitative analysis by an unsubstantiated qualitative conclusion to the effect that both an airport and an expanded jail will result in significant cumulative regional emissions. Additionally, the new analysis still does not address the impact that the jail mitigation measures will have on such cumulative emissions. Therefore, the EIR should again be recirculated to address project emissions, the impact of mitigation measures on project emissions, and to provide a quantitative analysis of the cumulative impact of developing an airport and expanded jail adjacent to one other, as well as their relationship to other projects or uses in the jail expansion area.

10.6

10.3 The County disagrees with the commenter's position. The commenter is referred to page 25 of the REIR where it is stated that if the 40-acre public benefit conveyance does not occur, there would be a significant impact to cultivated land. The paragraph also states that the impacts to mapped lands (i.e., lands shown as prime farmland on the Department of Conservation maps, whether cultivated or not) are considered unavoidably significant. Therefore, contrary to the commenter's assertion, the County has already acknowledged these impacts in the document.

The County has included in the REIR at page 13 the CEQA Guidelines definition for mitigation. Note that subsection (e) of CEQA Guidelines §15370 specifically identifies mitigation as including *compensating* for the impact by *replacing* or providing *substitute* resources or environments. It is difficult to imagine a situation where the acquisition of replacement lands for agricultural uses — cultivated or not — does not fit under Guidelines §15370(e), especially when this is exactly the strategy that is used by resource agencies to compensate for the loss of wetlands, for example. In fact, it is ironic that the City of Irvine would make such a comment, having justified the approval of development projects in the City of Irvine some years ago by the retention and continued preservation of *existing* agricultural lands in the City donated by a private developer.

With respect to the comment regarding the deed restriction, it is unknown how the County would effect this deed restriction. First, the conveyance would be to the County itself, and it would be essentially deed restricting itself on land conveyed to it for a specific purpose. Furthermore, if the County were to receive conveyance of these off-site agricultural lands, and later propose development, this would be a significant change in the project, creating new or more severe impacts under §21166 of CEQA, justifying additional environmental review.

- 10.4 The County believes that the use of the term “best efforts” is appropriate in this circumstance. If there were no history to the County’s request for conveyance of the 40 acres within the El Toro Reuse area for agricultural purposes, and if there were no local redevelopment authority approval of this proposed conveyance, the City’s comments might be well taken. However, there is only one last step — the Department of the Navy approval — to achieve in order to provide for this conveyance to the County. In view of the fact that the Department of the Navy is obligated to provide public benefit conveyances, and the agricultural land conveyance would fall within this category, it is difficult to imagine why the Department of the Navy approval would be speculative at all. The County’s use of the term “best efforts” is the County’s continuing commitment to work with the Department of the Navy to achieve this conveyance as soon as possible.

The remainder of the comment is a repetition of Comment 10.3, and the reader is referred to the response to Comment 10.3 above.

- 10.5 The resolution for project approval will include a separate finding for air quality as is disclosed in the EIR at page 3. In addition, beginning at page 66 of the EIR, the County again acknowledges the impacts to air quality and reviews whether the impacts would be substantially reduced or eliminated by any of the 28 listed project alternatives. There is no need to decide whether other feasible alternatives exist, because this issue has already been reviewed in FEIR 564 and litigated, and the County’s discussion was found adequate. Neither the City of Irvine nor any other commenter has provided a site for a feasible alternative which would be believed to reduce impacts further, and therefore the County believes that substantial and uncontroverted evidence supports its conclusions in this regard.

- 10.6 The commenter misunderstands the scope of the court order. Specifically, with respect to air quality, the court found that the County had failed to find NOx emissions significant. The County has published, beginning on page 60, a discussion related to the findings that the County will make in this regard, and at page 61 indicates that there are no mitigation measures known other than those discussed in FEIR 564 that would reduce NOx emissions to acceptable levels and would be feasible. On the basis of that conclusion, the County intends to find that NOx emissions attributable to the project will remain significant after mitigation. As reported on page 60, about two-thirds of the NOx emissions are caused by vehicular traffic associated with the jail expansion, while the other one-third is due to off-site electrical generation. Since the housing needs for inmates remain constant regardless of where the jail is located, and the courts are not located at the jail buildings, the emissions cannot be reduced further. This fact remains the case regardless of whether the airport emissions are included or not.

George Britton
Page 3

Public Services (Police/Fire)

The document does not respond to the Court order, as "coordination" is not an acceptable means of mitigation. Again, as noted above for agricultural impacts, this mitigation measure is noncommittal and does not ensure mitigation. The Court order stated that this deficiency could be "corrected by additional analysis and inclusion" within the findings. We specifically request that the findings include the required analysis. The document needs to be revised to include binding mitigation agreements for public services/utilities, and more clearly state how the "mitigation" will reduce or off-set the impact or identify the impact(s) as significant and unavoidable.

10.7

Cumulative Impacts

The document should provide validation of OCP-92 as an appropriate basis for cumulative growth projections, especially since OCP-96 is now generally accepted County-wide. OCP-96 is a more current and more accurate growth projection that should be used as a basis for the cumulative impact analysis. OCP-96 is being used by the County for the impact analysis of the airport master plan and by the City of Tustin in the revised traffic study for MCAS Tustin.

10.8

Use of a regional growth projection in lieu of a specific list of cumulative projects is only acceptable when the regional growth projections utilized are contained within an adequate Program EIR, such as a General Plan EIR. Since no such EIR has been cited to address these regional cumulative impacts, the document needs to be revised and recirculated with respect to cumulative impact analysis for all project impact areas based on either an updated set of growth projections or a current list of anticipated projects.

10.9

We have the following additional comments on the Recirculated EIR's cumulative impact discussion:

Agricultural Lands

Because the analysis for project-related agricultural impacts is flawed as noted above, the cumulative impact analysis is likewise flawed.

There was no attempt to quantify or even qualitatively acknowledge the cumulative loss of agricultural land within the County, even though such data is readily available from the State of California. Furthermore, the document is misleading relative to the cumulative loss of agricultural land by the Musick facility plus base re-use, in that the actual total loss is 851 acres, which include the 92 acres of farmlands of statewide importance (although only "prime" farmland is listed in Appendix G of the CEQA Guidelines, the loss of "farmlands of statewide importance" is also significant).

10.10

10.7 Coordination is an acceptable means of dealing with mitigation for fire authority and paramedics in this context. The Orange County Fire Authority is a responsible agency for the project and is an integral part of the plan review. Furthermore, Appendix G contains evidence that the number of calls received by Orange County Fire Authority to the jail is extremely small — so small as to be considered negligible. Finally, Appendix I contains letters from the Orange County Fire Authority and Health Care Agency clearly demonstrating the ability to serve the project and the desire to be incorporated into the design, which request the County intends to accommodate. Therefore, these types of comments have been accommodated in the analysis.

Since the Orange County Sheriff-Coroner provides contract services to the City of Lake Forest for law enforcement, adequate law enforcement protection for that jurisdiction is assured. In any event, the reviewing court found that the arrest of only 33 persons out of 16,107 persons released established insignificance as a matter of law (Appendix A, Statement of Decision, page 10).

Finally, the Saddleback Station constitutes a significant law enforcement presence in the area, further reducing any perceived safety impacts.

10.8 Regarding the Orange County Preferred (OCP) development forecasts, there is no significant difference between the countywide forecast of employees between OCP 92 (dated 1995) and the OCP 96. The difference between OCP 92 and OCP 96 is in the distribution of employees among the cities. OCP 92 includes a higher, more intense concentration of employees in the City of Irvine and the City of Lake Forest and its sphere of influence. In addition, OCP 92 is more consistent with the existing inventory of employment development and the build-out forecast for employment development in the City of Irvine. For these reasons, the use of the OCP 92 forecasts in the REIR represents the worst case analysis for the cumulative impacts for the proposed project.

10.9 Please see response to Comment 10.8.

- 10.10 Contrary to the commenter's statement, at page 17 of the REIR a statement is made — attributable to the Department of Conservation, Division of Land Resource Protection, that between 1984 and 1996, 6,325 acres of important farmland were converted to non-agricultural uses in Orange County. It is a fact that much of this agricultural acreage that was lost between 1984 and 1996 was lost in the City of Irvine. Furthermore, in the City of Irvine's Environmental Impact Report for Irvine Planning Area 30, General Plan Amendment/Zone Change, at page 4.1-6 and -7, the City dismisses as infeasible any mitigation measure for farmlands of not only prime importance but statewide and unique farmland importance.

While the County of Orange would not rely on the determination of the City of Irvine in this regard if it were wrong, and does not rely on it here, it is not unusual to seek the maintenance of agriculture on a permanent basis in certain areas designated for such, and this is exactly the mitigation measure that is City policy and is sought on page 4.1-6.

Similar to the argument made by the County of Orange in FEIR 564 at page 58 that the loss of agricultural land was considered in an earlier Musick jail proposal in 1986 for which a Statement of Overriding Considerations was adopted and no further evaluation needed to occur, the City of Irvine makes this argument as well at page 4.1-8 of its EIR for Irvine Planning Area 30.

Nonetheless, agricultural land loss in Orange County has been significant over the years. As noted elsewhere in comments on the REIR, private agriculture in Orange County is of doubtful long-term viability, given increased land cost, increasing water cost, governmental regulation, diminished picking, packing and marketing infrastructure, urban vandalism, increasing international competition and other influences. At the very least, and contrary to the approach taken by many jurisdictions, the County of Orange has endeavored to secure compensatory land in the long term (such as land on the base) which was going to be lost to development in the base reuse plan. It is believed that the County has more than adequately compensated for the loss of the agriculture both on-site and off-site with respect to the Musick jail expansion.

George Britton
Page 4

The document states that each of the seven mitigation measures for the project are "equally applicable" for mitigating cumulative impacts, although the document rejects all but Mitigation Measure No. 1 as being infeasible or otherwise not recommended. As noted above, Mitigation Measure No. 1 is not valid, as it requires the "best effort" of the County, and simply transfers ownership of farmland without off-setting the loss of this resource. The document needs to be revised and recirculated with respect to providing meaningful mitigation measures for cumulative impacts to agricultural resources.

10.11

The document does not clearly state whether or not the cumulative loss of agricultural lands is significant with mitigation. As noted above, due to the inadequacy of mitigation provided and lack of discussion regarding the true regional loss of this resource, this cumulative impact is significant and unavoidable, and should be so stated.

10.12

Traffic

We take exception to the statement that the cumulative impact analysis in FEIR 564 was adequate with the exception of the base re-use analysis. This is not consistent with the Court order, and is not supported by substantial evidence. "All reasonably foreseeable past, present and future projects" are not addressed in FEIR 564, as noted above (OCP-92 is not a current growth forecast, nor were regional cumulative impacts addressed in any other Program EIR cited in the document). The document needs to be revised and recirculated to incorporate current growth projections for the area, and should provide for specific assessment of potential cumulative impacts on Trabuco Road, Alton Parkway and Bake Parkway, as these arterials serve existing and projected future major residential and commercial/industrial areas such as the Irvine Spectrum and similar business properties in the northwest part of Lake Forest.

10.13

The document continues to offer the "ratio concept" as appropriate, even though the Court specifically rejected that approach. With or without the base re-use, the local area will suffer from cumulatively significant traffic impacts through the buildout of the general plans of Irvine, Lake Forest and the unincorporated communities to the north and east of Lake Forest. The document needs to be revised and recirculated to clearly assess the project's contribution to these impacts, and to discuss feasible mitigation measures for cumulative impacts. With respect to such impacts, a direct comparison between the ETRPA Non-Aviation Plan and the airport plan, as stated in the recirculated EIR, may not be completely accurate because the former has trip capture capabilities, while the latter does not.

10.14

The document inappropriately relies on base re-use to provide for project-related cumulative mitigation measures. The document uses vague, unenforceable mitigation measures that provide for no accountability to implement, and therefore do not ensure implementation of necessary project-related cumulative mitigation measures (the

10.15

With respect to the assertion that the document is misleading relative to the cumulative loss of agricultural land by the Musick facility plus the base reuse, the County stands by the numbers in the EIR at pages 27 and 28 which derive from FEIR 563. The City of Irvine does not explain why it believes that the document is incorrect, and that the numbers should be 851 acres.

10.11 The County disagrees with the City of Irvine's assertion that mitigation measure 1 is not a valid mitigation measure (please see response to Comment 10.4 herein.) The County makes unavoidable adverse impact findings with respect to agricultural land on page 63 of the REIR, and the Resolution of Findings for FEIR 563 for the reuse plan makes similar findings. It is not understood what further findings the City of Irvine seeks to discuss the "true regional loss of this resource," especially in view of the City's Irvine Planning Area 30 EIR and the City's position, as stated in the past, that the County can sell the Musick site to be developed entirely by private development and use the proceeds to acquire another site.

10.12 It is so stated at pages 27-28 of the REIR.

10.13 Regarding OCP 92 over 96, see the response to the City of Lake Forest Comment 21A.16. For a response to the issue of environmental documentation for OCP 92 or 96, see the response to Comment 10.8 herein.

Regarding the project impacts on Trabuco Road, Alton Parkway and Bake Parkway, the cumulative effects of the proposed project, cumulative projects with and without the El Toro Community Reuse Plan (CRP) are analyzed in pages 32 through 45 of the REIR, including Exhibits 2 through 7, Tables 4 through 7.

This comment raises no new or expanded environmental issue or information.

Although the City of Irvine places in quotations the words "all reasonably foreseeable past, present and future projects" following a statement that the analysis is not consistent with the court order, the court order does not refer to all reasonably feasible past, present and future projects. In fact, in the Statement of Decision, the County's cumulative impact analysis was upheld in that regard, mainly because the traffic modeling for the jail includes all past, present and reasonably foreseeable future projects *except the reuse plan*. The court required the County to analyze the cumulative impacts against a hypothesis of a no project and/or open space alternative for El Toro reuse and against a hypothesis of a significantly intensive project for the el Toro reuse (see Appendix A, Statement of Decision, page 13, lines 14 through 24).

The aim of these analyses was to determine if the jail impacts, taken in the aggregate, were insignificant in any case.

This is precisely what the County undertook. The exception which the City of Irvine takes to the OCP-92 growth forecast is responded to in the responses to Comments 10.8 and 10.9 herein. Therefore, not only is the cumulative impact analysis with respect to traffic in conformance with the Statement of Decision direction, it is in conformance with the California Environmental Quality Act and is supported by substantial and accurate evidence in the record. The fact that the City of Irvine disagrees with the quality of this evidence does not alone constitute inadequacy of this EIR.

- 10.14 The County has not offered any ratio concept as appropriate. Significantly, the City of Irvine does not suggest what type of analysis it would put in the place of a statement concluding that, no matter how large a project one conceives at El Toro or no project at all, the jail has minimal impacts in any environmental topical category.

The cumulatively significant traffic impacts through the buildout of the General Plans of the cities of Irvine and Lake Forest and the incorporated communities to the north and east of Lake Forest have all been evaluated in their own EIRs and Statements of Overriding Consideration adopted. In fact, this is acknowledged by the City of Irvine in their Final EIR for Irvine Planning Area 30 (EIR at page 4.1-8). The project has a negligible contribution to these impacts, the type of contribution which is so small it is answered in the traffic context merely by restriping or adding a lane here and there on an arterial system. Please see responses to Comments 21A.19 and 21A.24 of the City of Lake Forest letter.

With respect to the ETRPA non-aviation plan, the City of Irvine's assertion that the ETRPA non-aviation plan has trip capture capabilities and the airport plan does not is not supported by any evidence, and no further response can be offered.

- 10.15 The first part of this comment is so vague and ambiguous as to be an obstacle to a precise response. The mitigation measures call for agreements to design and complete improvements on various roadways which are all within the City of Irvine. These agreements are well known in multiple-jurisdiction settings where a project in one jurisdiction may affect a roadway in another jurisdiction. The City of Irvine belongs to Orange County Transportation Authority, who oversees agreements such as this in the context of disbursing funds through Measure M and Proposition 111 for traffic improvements. The meaning of the words "unreasonably withheld" and "authority to complete" are plain on their face. The County of Orange has no right to enter the City of Irvine and construct improvements. Therefore, it requires the City of Irvine agreement. If the City of Irvine were to withhold agreement on an unreasonable basis — such as already occurred with the City of Irvine with respect to the approval of drainage plans for the Sheriff's Station on the jail site — the County would be relieved of its responsibility to construct these improvements.

CEQA provides specifically for these unfortunate incidents of non-cooperation between agencies in the Findings section of the CEQA Guidelines. For example, §15091 of the CEQA Guidelines specifically provides that an agency may make a finding that changes an alteration which would reduce or eliminate one or more significant environmental effects but are within the responsibility and jurisdiction of another public agency and not the agency making the finding, have been or can and should be adopted by such other agency. In this case, the County has provided the financing structure and the opportunity to cooperate on these improvements for the expansion of the jail. The County will make a finding that if the City of Irvine does not agree to these improvements, and to participating in their fair share of these improvements, these improvements can and should be adopted by the City of Irvine and that the County is disabled from further cooperating in its own proposed mitigation measure. In view of the fact that these mitigations are only required prior to implementation of certain phases (i.e., Mitigation Measure #8 requires that an agreement shall be entered into prior to full implementation of Phase 1, and Mitigation Measure #9 requires the same commitment prior to full implementation of Phase 3) there is more than ample time for the jurisdictions to work out their differences on these relatively simple improvements.

George Britton
Page 5

referenced "agreement" and the definitions of "unreasonably withheld" and "authority to complete" need to be clearly defined, or the document needs to commit to constructing these improvements regardless of the agreement, or to acknowledge the potential that the improvements may not be constructed and to identify the impact as a cumulatively significant impact).

10.15

Air Quality

As noted above, the document incorrectly discounts the cumulative impacts associated with other area projects and future development, and relies solely on the analysis of base re-use alternatives, thereby failing to address the deficiencies noted in the FEIR by the Superior Court.

10.16

Public Services and Utilities

As noted above, the document incorrectly discounts the cumulative impacts associated with other area projects and future development, and relies solely on the analysis of base re-use alternatives.

10.17

Conclusion

The cursory conclusions drawn in the document regarding other land use alternatives, particularly with respect to footnote no. 17, raise a number of issues regarding the adequacy of the cumulative impact and alternatives analyses. The conclusions, particularly with respect to air quality, noise and traffic are devoid of any factual basis, and rely on only speculation and an apparent predetermination by the County in favor of the approval of the jail expansion at the Musick site. No evidence has been provided that an alternative use of the Musick site would result in the identified impacts. Potential traffic impacts could be mitigated to less than significant levels. Air quality impacts may or may not exceed SCAQMD thresholds, and may have regional air quality benefits from reduced trip lengths, depending on the land use(s). An alternative land use could just as easily acquire or negotiate preservation of off-site agricultural lands as the County. The County has provided no factual basis, and it is inappropriate to assume that an alternative site could not be found that has agricultural land near-by, or that it is infeasible to provide food for inmates via outside vendors. It is furthermore inappropriate to assume that any alternative site(s) would have increased impacts in all other categories, as any "increased impacts", if present, could be mitigated to less than significant levels in most or all instances¹.

10.18

¹ In the case of a remote jail site, there may be reduced land use compatibility, aesthetics and noise impacts due to lower population density and greater distance and topographic screening from surrounding residential areas. Potential impacts to sensitive resources, such as wetlands, sensitive

10.19

10.16 The commenter's statement is not correct. The air quality analysis includes all development that is reasonably foreseeable in the area, including the reuse plan, and does not simply compare two projects together. This is amply demonstrated in the technical documents supporting both the reuse plan and the jail, and allegations of the cities of Irvine and Lake Forest in this area at the time of the litigation against Final EIR 564 were not endorsed by the court.

10.17 Please see response to Comment 10.16.

10.18 The conclusions drawn in this comment are without basis. The County has carefully analyzed in FEIR 564, combined with the recirculated sections of FEIR 564, the cumulative impacts of this project taken together with development in the surrounding cities and the incorporated area as well as two scenarios for the reuse plan area.

The statement that "no evidence has been provided that an alternative use of the Musick site would result in the identified impacts" is specious, especially in light of the fact that the City of Irvine complains about the intensive development of El Toro and even its own surrounding development in its industrial area. One feature of a jail project is that its traffic is considerably lower than would ordinarily be expected from a 100-acre site developed with uses such as exist to the south of the Musick site. In fact, the Irvine Planning Area 30 EIR alone shows that significant adverse impacts would occur with respect to the City of Irvine's proposed development of that 440-acre parcel of land (see Planning Area 30 EIR, pages 8-1 and 8-2, focusing specifically on significant adverse impacts to transportation and circulation and air quality as a result of the development of that project).

George Britton
Page 6

Thank you for the opportunity to comment on the recirculated portions of EIR No. 564. We also hereby incorporate the comments of the City of Lake Forest on the recirculated portions of EIR No. 564. If you have any questions, please contact me at (949) 724-6456.

Sincerely,



PETER HERSH
Planning Policy Manager

habitat and cultural resources, could be mitigated through avoidance, salvage, relocation and/or replacement. Traffic and noise impacts may be reduced due to less congested roadways. Air quality impacts may increase due to greater transport distances, although the proposed Musick expansion itself has unavoidable air quality impacts. Physical engineering constraints such as utilities/services, geotechnical constraints and drainage requirements could be resolved by providing adequate infrastructure. This warrants further analysis in the document, which should be revised and recirculated to address the ability of one or more alternatives to reduce or avoid the project's identified significant impacts, as required by CEQA.

10.19

Although the Irvine Planning Area 30 project is more than four times the acreage size of the Musick jail, the EIR itself shows that an office/business park of approximately 41 acres with a floor area ratio of .6 results in 1,063,735 maximum total square feet (see Irvine Planning Area 30 EIR, Table 3-B, page 3-9). In reviewing the project trip generation summary in the same EIR in Table 4.6-B, only 970,000 square feet are accommodated in that table, even though 1,063,735 are stated in Table 3-B. Nonetheless, and even at that smaller size of project, daily trip ends are estimated at 9,071 ADT. Turning to FEIR 564, and reviewing the traffic generation for the jail, the new uses on the jail property would only generate 4,253 trips, or less than half of what would be accommodated on 970,000 square feet. Therefore, the County believes it is obvious and requires no further analytical evaluation to determine that the devotion of 100.5 acres of jail site to business park would produce substantially more traffic and air quality impacts than the jail itself.

Finally, and in passing, the County notes that once again the City of Irvine urges the sale of the Musick site for development purposes in order to acquire off-site agricultural land or another site, and therefore the agricultural uses of prime farmland on the Musick site to the extent of 55 acres would become a permanent loss.

- 10.19 This is a footnote comment related to the Conclusion section of the letter. The City of Irvine presents no evidence to support the statements in this footnote. However, as is shown on Table 13 of the EIR, and looking at the 28 alternatives which were studied, the impacts would be more severe in at least 18 of the alternatives. This is easily understandable when the alternatives are examined. For example, the Gypsum Canyon site in the vicinity of the City of Anaheim was once considered as a remote jail site. However, the site possesses significant environmental resources of a biological character that were not able to be mitigated through avoidance, salvage, relocation and/or replacement. In fact, many of the other remote sites studied — albeit possessing significant environmental resources — have now been incorporated into various resource management plans.

The plain fact of the search for a jail site to provide the needed expansion for the jail system in Orange County is that as time passes, fewer sites exist upon which to locate a jail expansion without impacts. In spite of the fact that the City of Irvine continues to urge that the Musick site is inappropriate from an environmental context as a jail expansion site, and in view of the fact that the City of Irvine is one of the largest cities by land area in Orange County, the City of Irvine has not proffered any remote site in its own jurisdiction. While the County agrees that, within a CEQA context, it is not incumbent upon the City of Irvine to identify alternative sites, the County has identified 28 alternatives to placing the site at Musick, all of which either have greater environmental impacts than the proposed site or are infeasible for other reasons. Notwithstanding this significant effort on the County's part over the last 20-year period, the City of Irvine continues to urge that — somewhere, somehow — an alternative site exists that could be mitigated or not have significant impacts at all.

In view of the fact that the City of Irvine was a highly publicized member of an alternatives search initiated by the cities of Irvine and Lake Forest some months ago, and in spite of the fact that a resident of the City of Lake Forest aware of that study claimed that alternative sites existed, no such sites were identified in consultation with the cities of Irvine and Lake Forest. Therefore, the County believes that substantial evidence supports its determination that: 1) it has made a more than adequate search for alternatives to the Musick jail site, and 2) it has substantial evidence supporting its adequate analysis of these alternatives in contrast to the proposed project.

**Comment Letter 11:
Loretta Fischer-Herrin**

RECEIVED
OCT 02 1998
Environmental & Project Planning
12:54 P.M.

VIA FACSIMILE (714) 834-4852

October 1, 1998

Mr. George Britton, Manager
PDSD/ Environmental & Project Planning Services
30 North Flower Street, Room 321
P.O. Box 4048
Santa Ana, CA 92702-4048

RE: Expansion of the Musick Jail

Dear Mr. Britton:

I am very much against the expansion of the Musick Jail facility to a maximum-security jail. This jail site is too close to residential neighborhoods and schools. I believe that you'll be releasing prison inmates right into our neighborhoods. I say NO WAY!!

The other thing that is bothersome is when these inmates receive visitors (e.g. fellow gang members), they'll be driving through our neighborhoods and by our schools.

Please do NOT expand the Musick jail. Thank you.

Cordially,

Loretta Fischer-Herrin
Loretta Fischer-Herrin

11.1

Response to Letter 11:

11.1 This is an expression of opposition to the project and raises no substantive environmental issue. There is no substantiation provided to the statement that visitors to inmates are either fellow gang members or will be driving through neighborhoods or school areas in Lake Forest. In view of the fact that the site is accessed by major arterial highways through industrial and business park areas, it would be unlikely that visitors to inmates would be traveling through neighborhoods in Irvine or Lake Forest unless the visitor is a resident of those cities.

Further, jail inmates are not released into neighborhoods. The release point is located on the extension of Alton Parkway between the jail site and the base, well over 3,100 feet from the closest home.

Comment Letter 12:
Blanka Burgo

VIA FACSIMILE (714) 834-4852

RECEIVED
OCT 02 1998
Environmental & Project Planning
11:49 a.m.

October 1, 1998

Mr. George Britton, Manager
PDSD/ Environmental & Project Planning Services
30 North Flower Street, Room 321
P.O. Box 4048
Santa Ana, CA 92702-4048

RE: Expansion of the Musick Jail

Dear Mr. Britton:

Please do NOT expand the Musick Jail facility to a maximum-security jail. This jail site is too close to residential neighborhoods and schools. I believe that you'll be releasing prison inmates right into our neighborhoods.

My daughter and grandson live near there and I fear that they will not be safe if this goes through.

Please do NOT expand the Musick jail. Thank you.

Cordially,

Blanka Burgo
Blanka Burgo

12.1

Response to Letter 12:

12.1 Please see response to Letter 11 from Loretta Fischer-Herrin.

Comment Letter 13:
Charlotte Herrin

Response to Letter 13:

13.1 Please see response to Letter 11 from Loretta Fischer-Herrin.

VIA FACSIMILE (714) 834-4652

RECEIVED
OCT 02 1998
Environmental & Project Planning
12:00 p.m.

October 2, 1998

Mr. George Britton, Manager
PDSD/ Environmental & Project Planning Services
30 North Flower Street, Room 321
P.O. Box 4048
Santa Ana, CA 92702-4048

RE: Expansion of the Musick Jail

Dear Mr. Britton:

Please do NOT expand the Musick Jail facility to a maximum-security jail. This jail site is too close to residential neighborhoods and schools. I believe that you'll be releasing prison inmates right into our neighborhoods.

My son, daughter-in-law and grandson live near there and I fear that they will not be safe if this goes through.

Please do NOT expand the Musick jail. Thank you.

Cordially,

Charlotte Herrin
Charlotte Herrin

13.1

Comment Letter 14:
Lex Herrin

VIA FACSIMILE (714) 834-4652

October 2, 1998

Mr. George Britton, Manager
PDSD/ Environmental & Project Planning Services
30 North Flower Street, Room 321
P.O. Box 4048
Santa Ana, CA 92702-4048

RE: Expansion of the Musick Jail

Dear Mr. Britton:

Please do NOT expand the Musick Jail facility to a maximum-security jail. This jail site is too close to residential neighborhoods and schools. I believe that you'll be releasing prison inmates right into our neighborhoods.

My son, daughter-in-law and grandson live near there and I fear that they will not be safe if this goes through.

Please do NOT expand the Musick jail. Thank you.

Cordially,

Lex Herrin
Lex Herrin

14.1

3:03 PM
RECEIVED

OCT 12 1998

ORANGE COUNTY PSD
ENVIRONMENTAL & PROJECT PLANNING
SERVICE DIVISION

Response to Letter 14:

14.1 Please see response to Letter 11 from Loretta Fischer-Herrin.

Comment Letter 15:
Ron Burgo

VIA FACSIMILE (714) 834-4652

October 1, 1998

Mr. George Britton, Manager
FDSD/ Environmental & Project Planning Services
30 North Flower Street, Room 321
P.O. Box 4048
Santa Ana, CA 92702-4048

RE: Expansion of the Musick Jail

Dear Mr. Britton:

Please do NOT expand the Musick Jail facility to a maximum-security jail. This jail site is too close to residential neighborhoods and schools. I believe that you'll be releasing prison inmates right into our neighborhoods.

My daughter and grandson live near there and I fear that they will not be safe if this goes through.

Please do NOT expand the Musick jail. Thank you.

Cordially,

Ron Burgo

Ron Burgo

RECEIVED
OCT 02 1998 3:05 PM
ORANGE COUNTY PCS
ENVIRONMENTAL & PROJECT PLANNING
SERVICES DIVISION

Response to Letter 15:

15.1 Please see response to Letter 11 from Loretta Fischer-Herrin.

15.1

**Comment Letter 16:
Bradley T. Herrin**

VIA FACSIMILE (714) 834-4852

October 2, 1998

Mr. George Britton, Manager
PDSD/ Environmental & Project Planning Services
30 North Flower Street, Room 321
P.O. Box 4048
Santa Ana, CA 92702-4048

RE: Expansion of the Musick Jail

Dear Mr. Britton:

I am very much against the expansion of the Musick Jail facility to a maximum-security jail. I believe that you'll be releasing prison inmates right into our neighborhoods. This jail site is too close to residential neighborhoods and schools. Please don't do this!

The other thing that is bothersome is when these inmates receive visitors (e.g. fellow gang members), they'll be driving through our neighborhoods and by our schools. They will be "casing our neighborhoods".

Please do NOT expand the Musick jail. Thank you.

Cordially,

Bradley T. Herrin

Bradley T. Herrin
25111 Cineria Way
Lake Forest, CA 92630


RECEIVED
OCT 07 1998
ORANGE COUNTY PDS
ENVIRONMENTAL & PROJECT PLANNING
SERVICES DIVISION
304 PM

Response to Letter 16:

16.1 Please see response to Letter 11 from Loretta Fischer-Herrin.

16.1

**Comment Letter 17:
City of Santa Ana**

MAYOR Miguel A. Pulido MAYOR PRO TEM Robert L. Richardson COUNCILMEMBERS Tony Espinoza Brett Franklin Thomas E. Lutz Patricia A. McGuigan Ted R. Moreno	 CITY OF SANTA ANA PLANNING & BUILDING AGENCY 206 W. Fourth Street (44-20) • P.O. Box 1988 Santa Ana, California 92702 Fax (714) 973-1461	CITY MANAGER David N. Ream CITY ATTORNEY Joseph W. Fletcher CLERK OF THE COUNCIL Janice C. Guy
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RECEIVED
OCT 02 1998
7:00 a.m.
Environmental & Project Planning Services Division

September 30, 1998

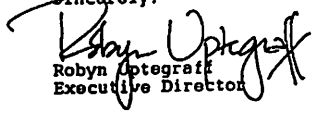
Mr. George Britton
County of Orange
PDSD/Environmental & Project Planning Services
P.O. Box 4048
Santa Ana, CA 92702-4048

RE: COMMENTS ON RECIRCULATED SECTIONS OF EIR NO. 564 FOR THE JAMES A. MUSICK JAIL EXPANSION

Dear Mr. Britton:

Thank you for the opportunity to review the recirculated sections of EIR No. 564. The intent of this letter is to affirm for the record, all previous comments we have submitted to the County of Orange regarding this proposed project still apply.

Sincerely,


Robyn Uptegraff
Executive Director

RU/MD/tr
MD\tr\britton

17.1

Response to Letter 17:


17.1 The County acknowledges the intent of the City of Santa Ana to affirm for the record all previous comments submitted to the County of Orange. The City of Santa Ana previously submitted comments to the County of Orange on Draft FEIR 564 on October 7, 1996. Those comments and responses thereto are included in the Final EIR 564 for the Musick Jail Expansion certified in 1996.

A summary of the City's comments is as follows:

The City commented on two alternatives in the EIR which involved more county jail facilities in the City of Santa Ana. The City of Santa Ana concurred in the County's rejection of these alternatives, as well as the significant disruption, displacement and environmental impacts from a cumulative loss of housing in an area currently experiencing housing overcrowding conditions (this was in reference to the acquisition of land in the City of Santa Ana for the expansion of the jail). Furthermore, the City of Santa Ana submitted that their Public Works agency believed that there would be adverse impacts to the existing sewer trunk system in Bristol requiring substantial upgrades, and also indicated insufficient drainage capacity.

Finally, the City of Santa Ana concurred in the assessment of transport and release of inmates from the Musick facility at the Intake and Release Center as unwarranted and infeasible. However, the City indicated that if the alternative were considered, it was expected that the appropriate mitigation measures would be developed to address the increased traffic, parking, demand, maintenance and security issues related to additional activity in the Santa Ana Civic Center complex.

**Comment Letter 18:
The Irvine Company**


THE IRVINE COMPANY

RECEIVED
OCT 02 1998
12:20 p.m.
Environmental & Project Planning Services Division

Monica Florian
Sr. Vice President
October 2, 1998

Mr. George Britton, Manager
PDSD/Environmental & Project Planning Services
300 North Flower Street, Room 321
P. O. Box 4048
Santa Ana, CA 92702-4048

Dear Mr. Britton:

RE: Recirculated Sections of EIR #564:
James A. Musick Jail Expansion and Operation

The Irvine Company has reviewed the recirculated portions of the Environmental Impact Report ("EIR") for the expansion of the James A. Musick Jail. We continue to believe that the comments previously made by The Irvine Company on this project and its accompanying EIR (see our letters dated October 7 and November 4, 1996) remain valid. Additionally, while we do not have any substantial issues with the recirculated portions, we offer the following few comments on it.

First, The Irvine Company believes that the circumstances applying to the County and the agricultural program at the James A. Musick Jail, which have caused the County to conclude that the loss of prime agricultural lands for this project may be significant, requiring mitigation, are unique to this project. The Irvine Company believes, for reasons generally discussed in the recirculated portions of the EIR, that it is not feasible generally to maintain agricultural uses in Orange County that cannot compete in the marketplace, and that loss of prime agriculture in the County generally should not be considered significant in the usual instance, absent the peculiar circumstances found to exist with the James A. Musick Jail (e.g., non-taxed, public land, captive labor, a captive consumer group, and no required support in terms of harvesting, packing, warehousing, marketing and shipment).

Second, the analysis of the rejected Mitigation Measures have even greater application to private projects, where market competition, and economic accountability, have particular influence. In particular, the County should expand on its rejection of all rejected measures, and particularly Mitigation Measure No. 4, insofar as those measures may be considered for future private projects that would convert agricultural lands to other uses.

550 Newport Center Drive, P.O. Box 6370, Newport Beach, California 92658-6370 (949) 720-2325
Printed on recycled paper

Response to Letter 18:

- 18.1 The County acknowledges the prior comments of The Irvine Company on this project. These comments are attached in their entirety to the October 2, 1998 letter of The Irvine Company. The November 4, 1996 letter referred to by The Irvine Company was presented on the eve of the Board hearing certifying this EIR and did not require a written response. However, the letter does not raise any issues of environmental significance different than those raised in the administrative record for the Draft EIR. Therefore, the County acknowledges The Irvine Company's prior comments and provides responses to their additional comments below.
- 18.2 The County acknowledges The Irvine Company's concurrence with the County's characterization of the agricultural land disposition in the vicinity of the jail offering unique opportunities. Indeed, there are some areas of endeavor where the fact that the land is publicly owned offers special opportunities which may not exist elsewhere in the marketplace. The County believes that this, in fact, occurs at the Musick jail complex, and therefore offers a substantial opportunity to secure advantages in this topical area that would otherwise not be as financially feasible if the land were privately owned.
- 18.3 The County does not, by its inclusion of these mitigation measures in this EIR, intend to extend these measures to privately held lands without analysis of additional statements of infeasibility which would be peculiar to privately held land. The County agrees that there may be substantial differences between the opportunities presented for agricultural preservation on publicly held land as opposed to those on privately held land. Furthermore, the position of agriculture on publicly held lands with an inmate labor force is particularly significant in terms of uniqueness. It may be that there is no other place in the County where this type of unity of purpose can occur.

Mr. George Britton, Manager
PDSD/Environmental & Project Planning Services

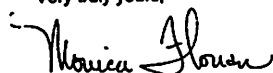
October 2, 1998
Page 2.

Again, private agriculture in Orange County is of doubtful long-term viability, given land costs, increasing water costs, expanded governmental regulation to ensure compatibility of agriculture with adjacent residential development, diminished picking, packing and marketing infrastructure, urban vandalism, increasing international competition, and other influences.

18.3

Thank you for your consideration of these comments.

Very truly yours,



Monica Florian
Sr. Vice President

MF/jd
Attachments

The County generally concurs with the final paragraph of The Irvine Company letter. Even if this statement had not been made, the Department of Conservation data disclosing the fact that over 6,000 acres of important farmland were converted to non-agricultural uses in Orange County between 1984 and 1986 (see REIR, page 17) is evidence of this phenomenon. Furthermore, population pressures have precipitated residential and commercial development of agricultural property as a response to housing and job shortages. Therefore, extensive preservation of agricultural uses on privately held land is not likely to result in adequate provision of housing, employment and educational opportunities in Orange County.

The letters attached by the commenter were responded to in the 1996 EIR proceeding.



THE IRVINE COMPANY

October 7, 1996

Paul Lanning, Project Manager
Environmental and Project Planning
300 N. Flower Street, Room #321
P. O. Box 4048
Santa Ana, CA 92702

Dear Mr. Lanning:

Re: Musick Jail Expansion DEIR

We have reviewed the subject DEIR and appendices and have enclosed our comments and recommendations on technical issues in two separate sections. It is our understanding that it is the County's objective to design jail buildings to look less institutional and more like office or modern official industrial buildings. Most of our recommendations involve design requirements which would better ensure visual compatibility with the surrounding community and our Spectrum business complex.

This response to the DEIR should not be interpreted as support for or opposition to the expansion of the facility. We recognize that this location has generated substantial opposition in the surrounding community. We also fully appreciate the important objective of addressing the public safety issue of over-crowded jail facilities. It is our hope that the EIR process will provide a factual foundation upon which elected policy makers can make an informed final decision.

Thank you for this opportunity to participate in the review process.

Very truly yours,

R. J. Cermak
Senior Director
Urban Planning and Design

enclosure
mcl

10/7/86

SECTION I
IRVINE COMPANY COMMENTS ON
MUSICK JAIL EXPANSION DEIR

EIR Page #	Comments/Recommendations
p. 73	<i>Mitigation Measure 29</i> - Recommend language be expanded to require bus shelters that match the bus shelters in Irvine Spectrum, which have a white horizontal roof, screened solar collectors, and no advertising.
p. 80	<i>Exhibit 14 Section Reference Map</i> - Recommend a cross-section be added through the south boundary to confirm that building setbacks are no less than ten (10) feet, and building heights are no greater than forty (40) feet at the setback line as required for the adjacent Irvine Spectrum property. Buildings greater than forty (40) feet high should be set back at least 20 feet from the property line. Landscaping and wall/fence locations should also be identified in the section.
p. 81	<i>Mitigation Measure 31</i> - Recommend added language to require that the landscape plan includes a) landscaping along street frontages to be coordinated with the existing landscape treatments along Alton Parkway and Bake Parkway, using the same plant types. b) a landscaping concept providing a clean, contemporary visual appearance rather than a dramatic individual statement. c) one tree type should dominate, with accents only at project entries.
p. 83	<i>Exhibit 16 Conceptual Wall/Fence Sketch</i> - Recommend a minimum dimension of thirty-eight (38) feet from street curb to perimeter wall be added to the diagram for the combined width of the "walk" plus "landscape buffer" along Alton Parkway.
p. 84	<i>Mitigation Measure 32</i> - Recommend language be revised to read: "All new buildings at the Musick Jail visible to the public off-site shall be constructed with an "office-appearing" facade. Individual buildings should be one single color within an overall neutral monochromatic color scheme for the site. Roof designs should be non-distinctive forms in neutral colors. Exterior mechanical equipment, including HVAC, electrical equipment, storage tanks, satellite dishes and telecommunications hardware should be screened from off-site views. Equipment screening should be fully integrated into the architectural design of the building and of the same or similar materials and colors.

EIR Page #	Comments
p. 84	<i>Mitigation Measure 34</i> -Add language to require that perimeter walls should be fully integrated into the architectural design of the building and of the same or similar material and colors. They should be of a solid simple design, without eye-catching patterns or graphics, and finished in one neutral color.
p. 84	Add a mitigation measure requiring that perimeter signs should fully be limited to simple identification, regulatory and directional signage, design in a comprehensive sign program.
p. 100	<i>Mitigation Measure 35</i> - Revise language to add the words "and business" to make the requirement more comprehensive.
p. 104	<i>Mitigation Measure 41</i> -Add language to require that to the extent possible, on-site perimeter lighting and parking lot/parking structure lighting should be consistent in height, spacing, color and type of fixture. Fixtures should be of a clean, contemporary design with zero cut-off shielding. Shoe-box designs are preferred. Tilted light fixtures should not be visible from surrounding streets. Dramatic architectural lighting is inappropriate. Off-site lighting along the Alton Parkway extension should match the existing "cobra" style, cut-off type, high pressure sodium luminaires mounted on "Slim Beauty" davit-shaped steel poles, thirty (30) feet in height.
p. 183	<i>Mitigation Measure 51</i> - Add language requiring that above ground utilities (such as backflow preventers, transformers, cable television pedestals and irrigation controllers) outside the perimeter walls should be located away from the street edge and screened by shrubs. All utility lines must be underground.
p. 171	<i>Mitigation Measure 48</i> -The existing language seems to imply that the project would not be required to participate in any existing fee programs (i.e. Corridor, Santiago Canyon Road, FCCP or El Toro Road fee programs). Modify language to require participation in these programs.
p. 172	A mitigation should be added to require the preparation of a Transportation Management Plan pursuant to the County Transportation Demand Management Ordinance.

10/7/96

**SECTION II
IRVINE COMPANY COMMENTS
ON TRAFFIC STUDY
IN THE APPENDIX OF THE DEIR**

1. The long range peak hour traffic forecasts utilized a South County Sub-area model. Page I-4 indicated that some adjustments were made to correlate with the El Toro Sub-area Model which was used for ADT forecasts. Documentation should be provided regarding the nature of these adjustments to determine their reasonableness.
2. The traffic study does not incorporate any Reuse Plans for MCAS (El Toro). It seems that additional traffic runs should be performed to understand the cumulative impacts of the Musick Jail expansion in combination with the preferred El Toro Reuse plan. In this context, a mitigation measure should be included to assure this project's fair share participation in mitigating the cumulative impacts of this use with the adopted El Toro Reuse plan.
3. The interim year analysis which was used as the basis of determining interim year mitigation measures has assumed the extension of Alton Parkway east of Irvine Blvd. The DEIR discusses in various locations the possibility that this extension might be delayed for various reasons. As such, an additional interim analysis should be performed to determine necessary mitigation measure should the extension be delayed.
4. No funding sources for assumed interim year improvements are shown in Table II-2. If specific committed funding sources for these improvements can not be identified, these improvements should not be assumed as constructed in the interim traffic analysis.
5. Four intersections are identified for improvement with Spectrum. Impacts to any landscaping or entry treatments at these intersections should be addressed.



THE IRVINE COMPANY

Gary H. Hunt
Executive Vice President

November 4, 1996

Honorable Roger Stanton, Chairman
Orange County Board of Supervisors
10 Civic Center Plaza
Santa Ana, CA 92702

Dear Chairman Stanton and Members of the Board:

On Tuesday you will consider a decision to allow expansion of the James A. Musick Jail to a 7500 bed maximum security prison. The Irvine Company has carefully reviewed the current Musick Jail Expansion proposal and its Environmental Impact Report. Our conclusion is that the proposed facility expansion is incompatible with the historic master planning of this area. This is especially true due to the magnitude of the increase in prisoners and the conversion of the jail from minimum security to include maximum security prisoners. This is a dramatic change in the scale and character of the existing facility and is particularly inappropriate in light of the jail's proximity to well-established residential and business communities.

The Irvine Company recognizes the importance and urgency of providing additional jail facilities in Orange County. We applaud the Sheriff and the Board of Supervisors for your many serious attempts to identify appropriate locations for additional facilities. We believe it is essential, however, that additional jail facilities be provided in a manner and in a location that does not disrupt or jeopardize the quality of life in established neighborhoods.

Existing business and residential areas near the proposed facility should not be subjected to the risks posed by the housing and transport of serious felons nor by the disruptive and potentially criminal activities and elements that may occur around large, maximum security prisons. While we recognize the Musick site may have potential advantages from a cost effectiveness and technical feasibility point of view, these factors should not outweigh the potential problems the proposed expansion could impose on existing local businesses and residential communities.

Honorable Roger Stanton, Chairman
Orange County Board of Supervisors

November 4, 1996
Page 2.

The Irvine Company urges the County and Sheriff to defer consideration of the proposed Musick Jail Expansion at this time. Given the information now available in the EIR and from the public comments received, we suggest the Board not certify the EIR but refer it to staff for the development and evaluation of additional feasible alternative locations and approaches, particularly for maximum security prisoners.

Thank you for your consideration of our opinion.

Sincerely,


Gary H. Hunt
Executive Vice President

GHH/d

cc: Supervisor, James W. Silva, District 2
Supervisor, Donald J. Saltarelli, District 3
Vice Chairman, William G. Steiner, Supervisor, District 4
Supervisor, Marian Bergeson, District 5

**Comment Letter 19:
South Coast Air Quality Management District**



**South Coast
Air Quality Management District**

21865 E. Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • <http://www.aqmd.gov>

FAXED: OCTOBER 2, 1998

October 2, 1998

Jack W. Golden
Deputy County Counsel
Hall of Administration
P. O. Box 1379
Santa Ana, CA 92702

**Recirculated Sections of Environmental Impact Report No. 564
James A. Musick Jail Expansion and Operation**

Dear Mr. Golden:

The South Coast Air Quality Management District (AQMD) appreciates the opportunity to comment on the above-mentioned report. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final Environmental Impact Report.

- AQMD staff has reviewed the Cumulative Air Quality Impact discussion in the report and consider it responsive to issues raised in the August 1996 Environmental Impact Report No. 564.

- The three-building complex project is projected to be built in two phases as pointed out on page 65 of the August 1996 EIR. However, there is no information specifying the land acreages dedicated to each of the three building complexes. To accurately determine project construction emissions for each of the construction phases, the Final EIR should provide this acreage information.

- Regarding the mitigation of project construction emissions, the Lead Agency should review AQMD's Rule 403 - Fugitive Dust and the Rule 403 Implementation Handbook. These two documents contain standard measures for controlling construction-related emissions for CEQA mitigation.

- Bearing in mind that AQMD Rule 403 does not contain project-specific mitigation measures, AQMD staff recommends that the discussion of proposed mitigation measures listed on pages 69 through 73 of the EIR be made more specific and detailed. It is not enough to state that all impacts would be reduced to insignificance following the implementation of the recommended mitigation. The Lead Agency must demonstrate the effectiveness of the proposed mitigation measures by applying the emission reduction efficiencies to the respective mitigation measures. A listing of the emission reduction

Response to Letter 19:

19.1 The County of Orange appreciates the consultation with the Air Quality Management District, which has occurred consistently throughout the preparation of the recirculated EIR sections. The County appreciates the guidance provided by the AQMD and will incorporate, as set forth below, the refinements proposed by AQMD in the Final EIR.

19.2 The County of Orange appreciates the AQMD's staff concurrence in the cumulative air quality impact discussion in that it is responsive to issues raised in the 1996 EIR.

19.3 The AQMD is correct in that the three-building complex project is projected to be built in two phases, but could be built in as many as three phases, depending on funding and other constraints. This is why the project description sets up the jail project as a three-phase or three-complex project. The County is unable to determine whether the project will be built in two or three phases at this time, since funding opportunities do not usually present themselves until the County reaches the point of an approved project with a fully certified EIR.

The EIR reports that approximately 50 acres of the 100.5-acre site is to be prepared for buildings. The 1996 EIR depicts in the site plan for the site that the three complexes are roughly the same site area each, with the further clarification that the laundry, food service and warehouse would probably be built as part of Phase 1 and therefore occupy slightly more acreage. An analysis of Complex 1, together with the food service, laundry, warehouse areas, and associated parking structures, indicates a land area within the 50 acres of approximately 24 acres. Complexes 2 and 3 occupy approximately the same amount of land area and improvement and therefore will be divided between the balance of the acreage (26 acres) or be approximately 13 acres each.

19.4 The lead agency did review AQMD's Rule 403 - Fugitive Dust and 403 Implementation Handbook. The County believes that its mitigation measures included in the formerly certified EIR 564 include all measures appropriate for construction in response to Rule 403. These would include Mitigation Measures 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12.

Jack W. Golden

-2-

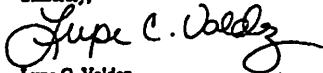
October 2, 1998

efficiencies for some mitigation measures may be found on pages 11-13 through 11-32 of the SCAQMD 1993 CEQA Handbook. Additionally, Section 21081.6 of the 1998 CEQA Guidelines requires that a mitigation monitoring program be developed to ensure enforceability of the mitigation measures. There should be monitoring strategies to ensure that the recommended measures do actually occur.

19.5

We hope that the above comments are helpful to the Lead Agency in revising the EIR for the project. Please contact Charles Blankson of my staff at (909) 396-3304 if you have any questions regarding these comments.

Sincerely,



Lupe C. Valdez
DEO, Public Affairs and Transportation programs

LCV:KH:CB

ORC910902-04
Control No.


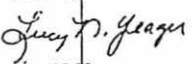
CC: Andi Culbertson, Planning Consultants, Aliso Viejo

19.5 The best evidence that the project specific mitigation measures applying to Rule 403 reduce impacts to a level of insignificance is that the impact itself does not exceed the threshold for significance. However, Table A11-9-A of the CEQA Air Quality Handbook contains control efficiency by percentage of PM10 mitigation measures (which are effective for grading issues). Additionally, Table A11-9 of the same CEQA Air Quality Handbook depicts emission estimates after implementation of mitigation measures that are associated with construction activities.

These two tables show that the mitigation measures recited above have the opportunity to reduce and control fugitive dust from construction between 30% and 65%. In fact, Table A11-9-A lists as a favorable factor the application of non-toxic chemical soil stabilizers, a mitigation measure included as #7 on page 71 of FEIR 564. Other measures included are street sweeping (efficiency is 25% to 60%), watering sites (efficiency is 34% to 68%), suspending grading activity when wind speeds exceed 25 mph (non-quantifiable), washing vehicles leaving the site (efficiency is 40% to 70%), ground cover planting (efficiency 15% to 49%), restricting traffic speeds on unpaved roads to 15 mph or less (efficiency is 40% to 70%) and suspending grading operations during any time where a Stage 1 smog alert is declared (no corollary in Table A11-9-A). With respect to the ranges of efficiency, Table A11-9-A also includes a notation that the lowest value of reduction efficiency should be used in the range unless further information is stated. Even using these lower values (and in view of the fact that no one stage of construction is capable of producing emissions for particulates over the SCAQMD threshold of 150), the total project grading, if undertaken all at once, would produce a value of 163 (it is foreseeable that these measures will be adequate).

Finally, in considering particulate emissions from the Musick jail site, no discount was included in either FEIR 564 or the recirculated sections for the ongoing agricultural activities. The plowing that is occurring now over 36+ acres of land also has a particulate emission that is significant. This emission will be reduced by the project to simply the 22 acres on-site and 12 to 15 acres off-site (the 25-acre site is not counted because it is already in production). Although this adds up to 34 to 37 acres ultimately, the County did not "discount" the interim reductions in particulates as the agricultural land is graded and jail buildings established. Monitoring is provided for through the mitigation measures and the mitigation monitoring program formerly adopted in that the bid documents are required to have these provisions included.

Comment Letter 20:
City of Anaheim, dated October 2, 1998

	<p>CITY OF ANAHEIM, CALIFORNIA Planning Department</p>
<p>October 2, 1998</p>	
<p>Mr. George Britton, Manager PDSD/Environmental & Project Planning Services 300 North Flower Street, Rm. 321 P.O. Box 4048 Santa Ana, CA 92702-4048</p>	
<p>RE: Notice of Availability for Recirculated Portions of EIR No. 564 - James A. Musick Jail Expansion and Operation, County of Orange - COMMENT LETTER REISSUED</p>	
<p>Dear Mr. Britton:</p>	
<p>Thank you for the opportunity to review and comment on the above-referenced document. City staff concurs with the recirculated EIR's rejections of alternative sites located in our community since they are infeasible and/or no longer available. Past communication the City has provided relative to this issue is also attached for your information (October 1, 1996 letter to Paul Lanning).</p>	20.1
<p>Again, thank you for the opportunity to comment. Please forward any subsequent public notices and/or environmental documentation regarding this project to my attention at: City of Anaheim, Planning Department, Room 162, 200 S. Anaheim Boulevard, Anaheim, CA 92805.</p>	
<p>Sincerely,</p>	
<p> Lucy N. Yeager Senior Planner</p>	
<p>cc: Joel Fick, Planning Director Tom Wood, Deputy City Manager</p>	
<p>200 South Anaheim Boulevard P.O. Box 8222, Anaheim, California 92808 • (714) 765-5189 • www.anaheim.net</p>	

Response to Letter 20:

- 20.1 The County of Orange acknowledges the City of Anaheim's letter calling to the County's attention the recirculated EIR's rejections of alternative sites located in Anaheim. The County also acknowledges the City's past letters attached to their October 2, 1998 letter in this regard, which additionally substantiate the County's rejection of the Gypsum Canyon alternative as no longer feasible. The October 1996 letters were responded to during the 1996 EIR process.



CITY OF ANAHEIM, CALIFORNIA

Planning Department

October 1, 1996

Paul Lanning, Project Manager
County of Orange
Environmental & Project Planning Division
300 N. Flower Street, Room #321
P.O. Box #048
Santa Ana, CA 92702

RE: Draft Environmental Impact Report No. 564 - James A. Musick Jail Expansion
and Operation

Dear Mr. Lanning:

Thank you for the opportunity to comment on the Draft Environmental Impact Report No. 564 prepared for the James A. Musick Jail Expansion and Operation. For the reasons outlined in our previous correspondence dated August 8, 1996 (letter attached), Anaheim staff concurs with the Draft EIR's rejection of the Gypsum Canyon site as an Alternative location on the basis that it is infeasible.

The City of Anaheim staff continues to be interested in any future discussion concerning the proposed activity. Please feel free to contact me if you have any questions about these comments. Please forward any subsequent environmental documents and notices to Karen Freeman of my staff at the address listed on the letterhead.

Sincerely,

Joel H. Fick

Joel H. Fick
Planning Director

ap5094kl.wp
Attachment

cc: Jim Ruth, City Manager
David Morgan, Assistant City Manager
Tom Wood, Deputy City Manager

200 South Anaheim Boulevard
P.O. Box 3222, Anaheim, California 92803 (714) 254-5139





CITY OF ANAHEIM, CALIFORNIA

Planning Department

August 8, 1996

Paul Lanning
County of Orange
Environmental Management Agency
P.O. Box 4048
Santa Ana, CA 92702-4048

RE: Notice of Preparation - Musick Jail Expansion

Dear Mr. Lanning:

The City of Anaheim Planning staff understands that the environmental documentation currently being prepared for the Musick Jail Facility Expansion may include an investigation of Gypsum Canyon in the City of Anaheim as a potential alternative jail site. We were most surprised that this site might be evaluated given the site's prior history. The County Board of Supervisors previously considered Gypsum Canyon as a long-term jail site and conducted extensive studies in this regard. For numerous reasons including acquisition costs, site development costs associated with the hillside terrain, and proximity to sensitive land uses, the Board of Supervisors in October of 1991 formally abandoned the Gypsum Canyon Jail project since the site was not feasible. Further, at the time that the County first considered Gypsum Canyon, the property was located in unincorporated territory under the jurisdiction of Orange County. Currently, it is within Anaheim's boundaries and has been entitled for substantial development, including residential housing.

Gypsum Canyon was annexed to the City of Anaheim in May of 1992 and has been approved for development of 7,966 residential units, 179 commercial acres, schools, parks and public infrastructure and facilities as part of the Mountain Park Specific Plan. In addition, a Development Agreement between the City of Anaheim and the property owner (the Irvine Company) was entered into on November 5, 1991, to further vest the project entitlements. Construction of the Eastern Transportation Corridor has commenced in the project vicinity. The alignment of this corridor is shown on the attached Mountain Park Development Plan.

200 South Anaheim Boulevard
P.O. Box 3722, Anaheim, California 92803 (714) 254-3139



The area surrounding the Mountain Park Specific Plan area has also experienced a great deal of growth. An overview of the major residential and commercial developments surrounding Mountain Park is attached for your information.

Thank you for the opportunity to comment on the environmental documentation under preparation. The City of Anaheim staff is most interested in any future discussion concerning the subject site. Please contact me if you have any questions about these comments or would like copies of the Mountain Park Specific Plan document. Please forward any subsequent environmental documents and notices to Karen Freeman of my staff at the address listed below.

Sincerely,



Joel H. Flick
Planning Director

ap60394.wj

cc: David Morgan, Assistant City Manager
Tom Wood, Deputy City Manager

ANAHEIM HILL AND CANYON AREA SUMMARY
June 1996

Anaheim's Hill and Canyon Area has experienced a great deal of growth, primarily within the last few years. Moving eastward from the Anaheim Hills Planned Community area, which was constructed primarily in the 1970's and 1980's, are three project areas currently under construction (the Highlands at Anaheim Hills, the Summit of Anaheim Hills and Sycamore Canyon), the Festival of Anaheim Hills commercial project that has one remaining phase to develop, the East Hills Planned Community that is completely constructed, and the Mountain Park and Cypress Canyon projects which have been approved and entitled for development. Following is a brief overview of these major residential and commercial developments:

Anaheim Hills Planned Community

This area, which encompasses approximately 1,818 acres and 5,011 dwelling units, was constructed primarily within the 1970's and 1980's with minor infill development still occurring.

East Hills Planned Community

The 315-acre East Hills Planned Community includes a total of 945 existing residential units (653 single-family attached and detached homes and 292 apartment units), approximately 67 acres of existing commercial retail/office/research and development uses, a fire station, a designated site for a future library facility and a developed park site.

The Anaheim Hills Festival Specific Plan

The 85-acre Festival Specific Plan has been developed with an approximate 596,407 square-foot shopping center with retail businesses, restaurants, a movie theater and service uses. Approximately 240,000 square feet of office/professional uses and a 150-room hotel and two restaurants (one internal to the hotel) remain to be developed.

The Highlands at Anaheim Hills Specific Plan

The 816-acre Highlands at Anaheim Hills, which is being developed by Presley of Southern California, provides for the development of up to 2,168 residential units including 1,010 single-family homes and 1,158 apartments and condominium units, a 5-acre park site, an 8-acre elementary school site and approximately 292 acres of open space. To date, the Building Division has issued building permits for approximately 1,778 units (952 single-family homes and 826 apartments and condominium units).

The Summit of Anaheim Hills Specific Plan

The 591-acre Summit of Anaheim Hills, which is being developed primarily by The Baldwin Company, provides for the development of up to 2,117 residential units, including 1,331 single-family attached and detached homes and 786 condominium units, 5

acres of commercial uses, a 12-acre park site, a 10-acre school site and 169 acres of open space. To date, the Building Division has issued building permits for approximately 1,000 units (650 single-family attached and detached homes and 350 condominium units).

Sycamore Canyon Specific Plan

The 325-acre Sycamore Canyon project is nearly complete with the last single-family tract (24 units) under construction. When completed, Sycamore Canyon will include 1,204 residential units, including 520 single-family homes and 684 apartment and condominium units, 12 acres of commercial uses, a police substation site and 132 acres of open space including two public park sites.

Mountain Park Specific Plan

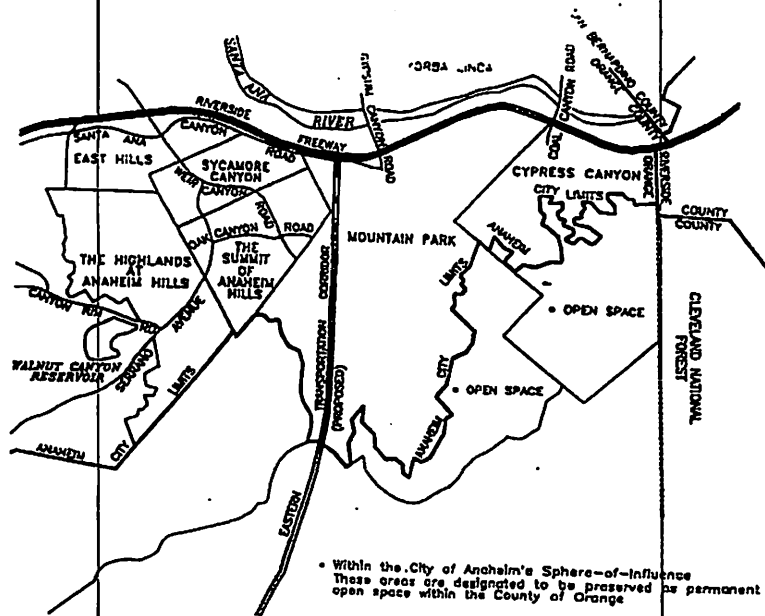
The 2,339-acre Mountain Park project was approved in 1991 for up to 7,966 residential units, 179 acres of commercial uses, interim sand and gravel mineral extraction, schools, parks and public infrastructure and facilities. The project area was subsequently annexed to the City in May, 1992.

Cypress Canyon Specific Plan

The 697-acre Cypress Canyon project was approved in 1992 for up to 1,550 residential units, 8 acres of commercial uses, an elementary school, a fire station site, an electrical substation site, a neighborhood park and open space. The project area was subsequently annexed to the City in August 1995.

ap5016ij.wy

ANAHEIM HILL AND CANYON AREA



RESIDENTIAL COMMUNITY

	ACRES	APPROVED	NO. OF UNITS	ESTIMATED POPULATION
1. The Highlands at Anaheim Hills SP87-1	816	1987	2,168	6,038
2. The Summit of Anaheim Hills SP88-2	591	1988	2,117	5,742
3. Sycamore Canyon SP88-1	325	1988	1,204	3,079
4. Mountain Park SP90-4 (Gypsum Canyon Property)	2,339	1991	7,966	21,260
5. Cypress Canyon SP90-3 (Coal Canyon Property)	697	1992	1,550	4,530

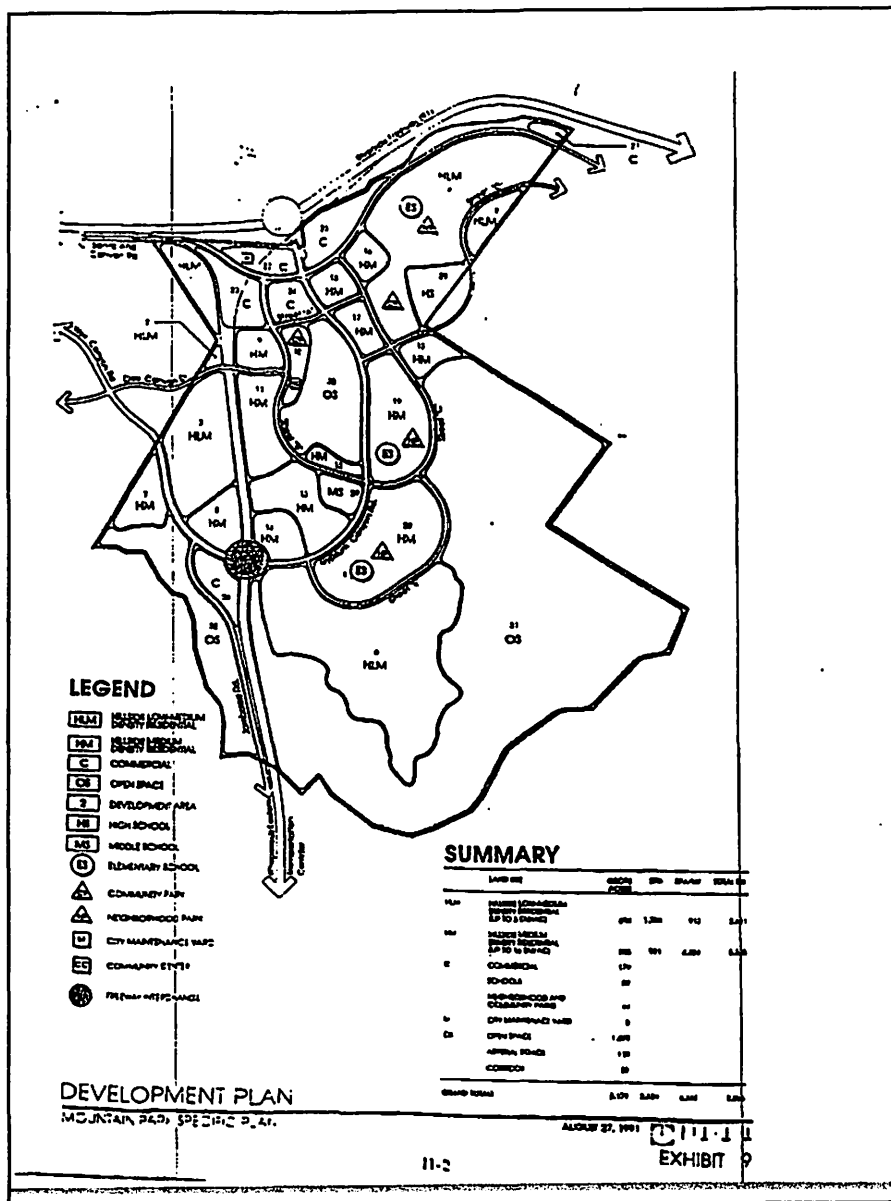


Table 1
DEVELOPMENT PLAN STATISTICAL SUMMARY

General Plan Land Use Designation	Dev. Area	Green Acres	RTD	RTA/ADT	Total DU	Approved Density
Hillside Low-Medium Density/Residential (Up to 8 DU/AC)	1	31	90	0	90	2.8
	2	5	31	0	36	8.0
	3	108	378	318	646	8.5
	4	184	643	318	801	4.0
	5	15	0	21	36	8.2
	6	32	372	318	682	8.1
Sub-Total		465	1,173	636	1,804	
Hillside Medium Density/Residential (Up to 16 DU/AC)	7	34	0	311	311	8.8
	8	37	0	340	340	8.7
	9	36	0	344	344	12.9
	11	39	0	611	611	10.5
	13	14	0	314	314	18.0
	13	72	134	444	548	7.8
	14	23	0	276	279	10.7
	15	24	0	340	340	14.8
	16	24	0	340	340	14.7
	17	35	0	340	340	14.6
	18	34	0	318	318	10.5
	19	80	321	319	540	6.8
Sub-Total		132	653	308	993	8.5
General Commercial	22	843	921	4,494	5,248	
	23	23				
	24	43				
	25	27				
	26	47				
	27	33				
	28	33				
Sub-Total		170				
High School	29	23				
Middle School	30	20				
Elementary Schools	31	25				
Sub-Total		68				
Neighborhood and Community Parks	44					
Open Space		44				
Sub-Total		1,473				
City Maintenance Yard	4					
Artesian/Lands	110					
Eastern Transportation Corridor	83					
GRAND TOTAL		3,170	2,659	5,237	7,966	

* Elementary school and neighborhood park acreage are excluded.

** School and park acreage are intended to meet the established requirements of the responsible agencies.

**Comment Letter 21:
City of Lake Forest**

Response to Letter 21:

RECEIVED

OCT 02 1998

12:37 p.m.

Environmental & Project Planning Services Division
[Signature]

**COMMENTS OF THE CITY OF LAKE FOREST
ON COUNTY OF ORANGE
RECIRCULATED SECTIONS OF
ENVIRONMENTAL IMPACT REPORT No. 564**

October 2, 1998

CITY OF LAKE FOREST



October 1, 1998

Mr. George Britton
Manager
PDS/Environmental Project Planning Services
300 North Flower Street, Room 321
P.O. Box 4048
Santa Ana, CA 92702-4048

Re: Comments on Recirculated Sections of EIR 564

Dear Mr. Britton:

On behalf of the City of Lake Forest, I am pleased to submit the following comments on the Recirculated Sections of EIR 564. The City is pleased the County has finally prepared a document which acknowledges construction of a massive 7,680-inmate jail at the site of the existing Musick facility will have significant adverse impacts on its surroundings, including the City of Lake Forest. For the reasons set forth in our comments, however, we believe the recirculated portions of EIR 564 are still seriously inadequate. The document's disclosure of the project's environmental impacts is incomplete, misleading, and based upon erroneous analyses, and the document still fails to acknowledge there are environmentally superior alternatives available to the County.

21.1

Accordingly, we believe the County has yet to prepare a document that complies with the requirements of the California Environmental Quality Act. We submit, if the County is intent upon further study of this project, the document must be substantially revised and recirculated for further public review and commentary. Rather than pursuing that course, however, we hope the County will instead accept our long-standing invitation to explore alternatives to this project that will meet the County's jail population needs in a manner that will have fewer environmental impacts for the citizens of Lake Forest and the rest of the County, is more fiscally responsible, and accounts for the expressed opposition of the County's newly elected Sheriff to the project analyzed in this document.

21.2

Thank you for the opportunity to submit comments on behalf of the City of Lake Forest.

Very truly yours,

Peter Herzog
Mayor

www.city-lakeforest.com



Lake Forest, Evolving the Past - Challenge the Future

23161 Lake Center Drive
Suite 100
Lake Forest, CA 92630
(714) 461-3400
FAX: (714) 461-3511

Mayor
Peter Herzog

Mayor Pro Tem
Richard T. Dixon

Council Members
Kathryn McCullough
Marcia Rudolph
Helen Wilson

City Manager
Robert C. Dunek

City Clerk
Jeri L. Stately

21.1 The City of Lake Forest mis-states the size of the jail. The proposed expansion involves 7,584 inmates. This is substantiated in the project description. This includes the 1,250± minimum security inmates already at the facility. The County disagrees with the commenter's assertions that the EIR is "incomplete, misleading, and based upon erroneous analyses, and ... fails to acknowledge that there are environmentally superior alternatives available to the County." With respect to the last point, while the EIR describes environmentally superior alternatives, it rejects them as infeasible, and the reasons for that statement of infeasibility still remain.

21.2 This comment raises no substantive environmental issue and is an expression of the commenter's opposition to the jail and the commenter's invitation to explore as yet unidentified alternatives to the project to meet the County's jail population needs.

The commenter's reliance on the assertion that the County's newly elected Sheriff has expressed opposition to the project analyzed in the REIR document is misplaced. It is the County Board of Supervisors — and not the Sheriff — that is responsible for the siting and construction of the jails to serve the jail system. This is a part of the Board of Supervisors' fiduciary obligations to the people of Orange County. Under state law, the Sheriff has no legal role in siting and constructing jails, but has the legal charge to operate them. Therefore, for the purpose of approving the construction of a jail at a particular site, it does not matter under the law whether the Sheriff is in support or in opposition.

The commenter's letter contains an attachment which presents the bulk of the comments of the commenter. That attachment is analyzed below.

INTRODUCTION

The Recirculated Sections of Environmental Impact Report No. 564 ("REIR") evidence the same failure to clearly and accurately disclose the impacts of the new Musick Jail ("Project") that led the Superior Court to invalidate these sections in the EIR initially prepared for the Project ("Initial EIR"). The REIR does not provide the impartial analysis and the "document of accountability" required by CEQA. *Laurel Heights Improvement Ass'n. v. Regents of Univ. of Cal.*, 47 Cal.3d 376, 392, 253 Cal. Rptr. 428, 430 (1989). Instead, the REIR avoids acknowledging the Project's impacts through reliance on undisclosed mitigation measures to be formulated at some future date with regard to another project; hedges its reluctant acknowledgement of other impacts by parsing them in ways unsupported by CEQA; and reaches its conclusion that the Project will not have significant cumulative impacts based on a misapprehension as to the meaning of "cumulative."

For the reader attempting to ascertain the Project's true impacts, the REIR presents a moving target. To offer but one example, the document reaches at least three different conclusions as to the Project's traffic impacts. See REIR at 48 ("no residual adverse impacts"); 63 (significant unavoidable adverse impacts to four arterial links); 65 (acknowledges impacts not previously discussed to Irvine Blvd. east of Alton Parkway and Bake Parkway north of Jeronimo; no mitigation provided).

To comply with CEQA's requirements, the REIR must be revised and recirculated for public comment prior to certification.¹

I. The Agricultural Impacts Discussion Is Misleading, Inaccurate and Internally Inconsistent

A. The REIR Incorrectly Concludes That Impacts To Cultivated Land Will Be Mitigated

The REIR misleadingly attempts to minimize its recognition of significant project-related agricultural impacts by positing that the loss of cultivated land precipitates a greater impact than the loss of presently uncultivated prime farmland. REIR at 13. The REIR then incorrectly concludes that after mitigation the Project will result in significant impacts only to prime farmland, not to cultivated land. REIR at 25.

As an initial matter, in assessing impacts to farmland CEQA nowhere draws the distinction between mapped and cultivated farmland relied on in the REIR. The fact that mapped land has the potential to be cultivated, and that this potential will be permanently lost due to the project, creates as significant an impact as does the loss of cultivated

¹ The City of Lake Forest hereby joins in and incorporates by reference the comments submitted by the City of Irvine on the REIR.

Response to Attachment 21A:

- 21A.1 The County disagrees with the commenter's assertion that the EIR is inadequate under CEQA and has not been prepared in a legal manner. However the commenter elaborates on these concerns later in the attachment, and therefore the County will reserve its specific response until the concern is raised squarely.
- 21A.2 The commenter's assertion is not well taken. The EIR at page 48 identifies that there would be no residual adverse impacts in the case of the "No CRP At El Toro" case, and this is supported by the data. This is referencing the interim condition, as impacts to arterial links only occur in the absence of the CRP in the long-range condition due to the combination of the project with regional growth. That is the basis for the statement on page 63 and page 65. By looking at the long-range condition, the County has evaluated traffic emanating from sources outside the control of the County such as natural regional growth and developments in the cities of Lake Forest and Irvine.
- 21A.3 The County disagrees that the REIR must be revised and recirculated for public comment prior to certification. For the purposes of this response, it is assumed that the commenter is referring to the recirculated sections of EIR 564 distributed by the County on September 2, 1998.
- 21A.4 Contrary to the position of the commenter, the County looks at the impacts to agricultural land from all angles — the acreage mapped by state agencies at a very small scale, regardless of whether it is being used agriculturally, as well as how the land is specifically being utilized. Furthermore, the County concludes that there will be no significant impacts to cultivated land only if the 40-acre public benefit conveyance is approved. In fact, the commenter seems to deliberately overlook the statement on page 25 that if the County does not obtain the 40-acre conveyance, the project's impacts to cultivated land "would remain significant."

land. Indeed, the REIR itself explicitly recognizes the potential for land that is not currently in cultivation to be used for such purposes in the future. See REIR at 9, Table 1. n. 1.

21A.4

Even were it true that CEQA accords more weight to impacts to cultivated land, the REIR's conclusion that such impacts have been mitigated is incorrect. The REIR's mitigation for the acknowledged significant loss of cultivated land relies on the conveyance of 40 acres as part of the El Toro Community Reuse Plan ("conveyance acres"). REIR at 25. The conveyance acres, however, do not serve as mitigation for impacts to agricultural land for a variety of reasons.

21A.5

1. The Acquisition of the Conveyance Acres Is Too Speculative To Be Relied Upon as Mitigation

21A.6

Any effort to rely upon the reuse properties is improper given the speculative nature of the acquisition. The County has not concluded lease negotiations for those parcels. The Department of the Navy has not issued a Record of Decision for the base property, and there is no assurance that these parcels will be conveyed to the Sheriff. Moreover, the re-use of the El Toro Marine Base is the subject of another environmental review process currently being undertaken by the County. Accordingly, it cannot be said whether these two parcels will be available for agricultural use by the County in the future.

Nor is the REIR's impermissible reliance on speculative mitigation measures rectified merely by the acknowledgement that if the County does not obtain the land, impacts would remain significant. REIR at 25. CEQA does not permit reliance on potentially infeasible mitigation measures simply by conceding that if such measures are not implemented, the impacts will not be mitigated. Such an approach completely obscures the project's actual impacts, which will not in fact be determined until long after the EIR is certified. Additionally, this approach allows the elected decision-makers to hide the fact that they have voted for a project that will have significant impacts, thus undermining CEQA's critical public accountability purpose. See 14 Cal. Code Regs. § 15003 (the EIR process enables the public "to determine the environmental and economic values of their elected and appointed officials thus allowing for appropriate action come election day should a majority of the voters disagree").

21A.7

2. The County Has Not Committed To Retaining the Land For Agricultural Uses

21A.8

Even assuming that conveyance of the 40 acres were not speculative, the REIR cannot rely on such land as mitigation because the County has not committed to retaining it as farmland. Mitigation Measure No. 1 only requires that the Board of Supervisors "make available the land for use by the Sheriff's Department for agricultural purposes." REIR at 13. The Sheriff is not required to farm the conveyance acres, and there is no guarantee or restriction requiring future agricultural use.

Furthermore, the County draws a clear distinction between mapped and cultivated farmland in the EIR because that is a precise statement of the existing conditions both from a regulatory and mapping standpoint and from a physical standpoint. This is clearly required by CEQA. Mapped land does have the potential to be cultivated, and the County recognizes this by presenting data on mapped and cultivated land separately in tables. It is not possible to farm every square foot of mapped land, in any event, because mapped land does not take into account certain other support facilities to agriculture such as access roads, storage facilities for crops, and equipment storage. In fact, in discussions with the Department of Conservation, the Department of Conservation does not endeavor to distinguish very minor features on mapped land at this particular scale (personal communication, Department of Conservation, Emily Kishi). Therefore, the analysis of cultivated land is especially appropriate in this case because the mapping strategy for prime farmland is not produced at a micro-scale enough to refine the acreage data to show the land actually available for prime farmland.

21A.5 Please see response to Comments 2, 3 and 4 of the City of Irvine. The County believes that the long-term preservation of land for agricultural use is at the heart of CEQA Guidelines §15370(e).

21A.6 Please see response to Comment 21A.5 herein.

21A.7 The fact that the Department of the Navy has yet to issue a record of decision on the base property does not convert an otherwise feasible mitigation measure to a speculative one. The mitigation measure referred is not "potentially infeasible;" it is in fact *feasible* subject to the approval of another agency. If there were no history with respect to these 40-acre conveyance properties — or they were merely "a gleam" in the eye of the County — the commenter's position might be well taken. However, not only has the Sheriff's Department requested this land and the local redevelopment authority approved it as a public benefit conveyance, there is absolutely no evidence to support that the Department of the Navy will also approve such a conveyance.

The County disagrees with the allegation that this approach allows elected decision makers to “hide the fact that they have voted for a project that will have significant impacts, thus undermining CEQA’s critical public accountability purpose.” The County questions whether the City of Lake Forest’s proposal to sell the Musick site for industrial or business park development isn’t subject to a similar criticism. The County’s CEQA document acknowledges a significant impact to agricultural land if the conveyance does not occur (REIR at page 25). No facts are being hidden from the electorate.

- 21A.8 It is true that there is no present guarantee or restriction requiring future agricultural use of the public benefit conveyance land, aside from the fact that the symbiotic relationship between the costs of running the jail system and the opportunities to grow food on this land are strong and significant. However, Mitigation Measure #1 states specifically that the Board of Supervisors, through the El Toro Master Development Program, shall ensure that those conveyance lands will inure to the benefit of the Sheriff’s Department for agricultural purposes. This may involve a deed restriction or other conditional conveyance element from the Department of the Navy.

The Sheriff has stated in several letters to the LRA that the land is intended for agricultural uses. If a further assurance is necessary, this can be done at the time of conveyance. However, more importantly, if the Sheriff does not use the conveyed land for agricultural purposes, impacts from the construction of the jail will be greater than reported in this EIR. Mitigation Measure #1 specifically requires that as long as the amount of agricultural land lost on the jail site is offset by an equal or greater amount of land acquired for agricultural purposes in the immediate area, the impacts to agricultural land are considered mitigated. If in the future the 40-acre public benefit conveyance is achieved, and the jail is expanded, and the Sheriff at that time refuses to farm the acreage, a new CEQA document will need to be prepared. Therefore, the mechanism for controlling this perceived outcome is inherent in CEQA itself.

No doubt recognizing this problem, the REIR examines in some detail the reasons why it is *likely* that the land would be kept agricultural. REIR at 11-13. This discussion simply highlights the fact that the REIR — like the Initial EIR (see County's Response to Comments on Initial EIR at 147-48) — fails to adopt any mitigation measure *committing* to future use of the conveyance acres for agriculture. The County's failure to include such a commitment with respect to the conveyance parcels is especially troubling, given that the Sheriff's Department has already expressed its desire to use this acreage for agricultural uses only in the near term, and to eventually use this acreage for further jail expansion. City of Lake Forest's Comments on Initial EIR 564 at 29-31 and Exhibit "Q" thereto.

21A.8

Proposed Mitigation Measure No. 2 (County Purchase of Off-Site Agricultural Lands) recognizes that a commitment to permanently retain the land for agriculture can — and should — properly be made. This proposed mitigation measure includes the requirement that "The County shall devote these lands to cultivation for the life of the jail project." REIR at 14. Absent the inclusion of such language in Mitigation Measure No. 1, the conveyance acres cannot be relied upon as mitigation.

3. **Twenty-five Acres of the 40-acre Parcel Are Already Under Cultivation and Hence Do Not Constitute Mitigation For the Destruction of Cultivated Land**

21A.9

The Initial EIR reasoned that because 28 acres of the 40-acre parcel are already cultivated, such acreage cannot be included as mitigation:

"[T]he loss of a net of 33 acres of land on the Musick site (55 acres offset by 22 relocated acres) is a small regional loss, and is also offset by the recommended conveyance of 40 acres of agricultural land through the Reuse Plan. On the other hand, all but 12 acres of the 40 acres are actively farmed now. Therefore, there is a net cumulative loss of 21 acres for the Musick site."

Initial EIR at 218.

The REIR also repeatedly adopts this reasoning when rejecting other proposed mitigation measures. For example, it notes that if off-site agricultural lands were purchased as mitigation "there would not be any net increase in the total amount of agricultural land that would be preserved if the land could somehow be acquired." REIR at 17. Similarly, in rejecting a mitigation measure that would involve placing agricultural conservation easements on existing prime agricultural land, the REIR explains that, "Implementing this measure would not directly result in the replacement of the agricultural land converted by the project; therefore, none of the direct adverse effects of the project on the County's prime agricultural land base and agricultural economy would be mitigated." REIR at 20. See also page 22 ("[P]rotecting agricultural lands off-site would not directly offset the project-related conversion of agricultural lands at the project site.")

21A.10

The statement that the Sheriff intends to use the agricultural land in the 40-acre public benefit conveyance only in the near term for agriculture is false, and the City of Lake Forest was informed it was false at the time. (See County response to City of Lake Forest comments on Draft EIR 564, Response to Comment 61, page 140, Responses to Comments.) Exhibit Q referred to in this comment is the Notice of Interest for buildings and property at the Marine Corps Air Station El Toro and contains a number of properties, including a request for 250 acres of land to be designated as a jail site. In spite of the County's response that there was no reference to temporary usage of the land for agriculture, and notification to the City of Lake Forest that it had failed to establish this evidence supporting its contention, the City of Lake Forest declined to enlighten the County on this issue. There is only one statement in Exhibit Q that could be interpreted as a temporary use of agriculture, and this deals with the request for a 79-acre parcel north of the Musick Branch jail. This site was not granted to the Sheriff's Department due to the presence of the Natural Communities Conservation Planning Program. In fact, the 12 to 15 acres north of the jail has always been planned for agricultural use by the Sheriff's Department because of its proximity to the jail facility and the need to secure that area.

The suggestion that the County devote the conveyance lands to agriculture for the life of the jail project is accepted. This language will be added to Mitigation Measure #1.

21A.9 Please see response to Comments 3 and 4 in the letter from the City of Irvine. Whether the land is cultivated or not, the fact that it will be preserved in perpetuity as agriculture — or by the suggestion of the City of Lake Forest only as long as it is associated with the jail facility — is sufficient as mitigation.

21A.10 Please see response to Comment 21A.9 herein.

The reference to Table 2 on page 10 is not well taken. Even if the commenter's suggestion were taken — that the 25 acres be added to the 38.71 acres in cultivation, there would still be no loss of acreage in cultivation.

Pursuant to the REIR's own reasoning then, the 28 acres of land currently under cultivation within the conveyance site cannot be included as mitigation for the loss of cultivated land on the Musick site.²

21A.10

Relatedly, Table 2 on page 10 is inaccurate and overstates the import of the LRA conveyance as far as cultivated land. The box indicating that there are currently 38.71 acres of land in cultivation with the LRA conveyance (top row, second column) omits the 25 (or 28?) acres currently in cultivation on the conveyance acres. Thus the column should indicate that there are 63.71 acres currently in cultivation with the LRA conveyance (38.71 acres currently in cultivation on the Musick property plus 25 acres currently in cultivation on the conveyance property.)³ The acreage difference column, which now suggests a +25 acre difference between current and proposed land in cultivation with the LRA conveyance, must be revised to accurately reflect that there is no acreage difference.⁴

Pursuant to these factors, the REIR must acknowledge significant, unmitigated impacts to both mapped and cultivated farmland.

B. Mitigation Measures Cannot Be Rejected on Financial Feasibility Grounds

21A.14

The REIR rejects a number of alternative mitigation measures for agricultural impacts based in part on fiscal considerations — despite its failure to offer any fiscal analysis of the cost of each measure or of the Project itself. In discussing the fiscal restraints precluding adoption of the alternative mitigation measures, the REIR notes that as reflected in the Strategic Financial Plan prepared by the County Executive Office, "not

² For reasons not explained in the document, the REIR states that "approximately 25" of these 40 acres are now in cultivation (REIR at 10), rather than 28 acres, as stated in the Initial EIR at 218. Whether 25 or 28 acres are involved, they cannot be counted as mitigation if they are already being farmed.

21A.11

³ This would be consistent with the previous column, which indicates that the amount of current prime farmland with the LRA conveyance includes the 55 acres on the Musick site *plus* the 40 reconveyance acres currently on the El Toro site.

21A.12

⁴ The REIR also suggests that the agricultural impacts should not be considered significant because "agricultural production on the Musick jail site would 'avoid bringing people into exposure to pesticides.'" REIR at 12. This ill-conceived argument illustrates all too clearly the REIR's interest in advocating — rather than objectively evaluating — the Project. The argument completely ignores the pesticide impacts on the thousands of people who will be living or working on the Musick jail site, including prison guards, sheriff deputies, and the 7,000 prisoners incarcerated on the site. Moreover, to the extent that the REIR suggests that such pesticides present an airborne problem of pollution (*id.* at 12, n.6), the REIR understates the impacts on the residential areas located near the jail.

21A.13

Finally, the County disagrees with the commenter's assertion that the EIR must acknowledge significant unmitigated impacts to both mapped and cultivated farmland. The County has clearly stated at page 25 that if the conveyance from the LRA does not become a reality, there is an impact to cultivated farmland, and indicates that there are significant and unmitigated impacts to mapped farmland.

21A.11 *Footnote* - The refinement from 28 to 25 acres is a result of additional measuring and calculation on the acreage under cultivation since the original EIR. It is a negligible difference.

21A.12 *Footnote* - Please see response to Comment 21A.10.

21A.13 *Footnote* - The commenter's concern for the welfare of inmates and those working at the Musick jail site is appreciated. There are no such things at the jail site as "prison guards," as the jail is staffed by Sheriff's deputies who are sworn personnel. Most notably in the commenter's concern is the failure to distinguish between the proximity of a residential area to an agricultural field — where long-term residents reside — and the relatively short-term impacts of a minimum security inmate (the only type of inmate exposed to the pesticides and fertilizers used) which is usually a short-term sentence.

Furthermore, the unsubstantiated allegation of airborne pesticide pollution problems due to agricultural impacts at the jail is not borne out by either the location of agriculture associated with the jail (on the east, north and west of the site) or the windflow patterns (FEIR 564, Exhibit 11, showing predominant winds out of the southeast and southwest).

21A.14 The commenter does not cite to any CEQA or CEQA Guidelines provision to support the assertion that before a mitigation measure can be rejected for financial reasons the County must "spell out" the cost of the measure and the cost of the project itself so that the County's decision makers can appropriate balance competing fiscal considerations. The County knows of no such reference.

all of the Board of Supervisors' priorities can be supported and funded within a five-year time frame." REIR at 16. The Strategic Financial Plan, however, also establishes that the County has failed to make any cost estimates as to the Musick project, and that sufficient funding sources are not currently available for the Project and in fact will not be available for at least 10 years. See Exhibit "A" at 2 (attached). It is inconsistent for the REIR to reject mitigation measures on fiscal grounds while advocating adoption of a Project for which there is neither a cost estimate nor any available funding in the foreseeable future. Before a mitigation measure can be rejected for financial reasons, the REIR must spell out both the cost of the measure and the cost of the Project itself, so that the County's decision-makers can appropriately balance competing fiscal considerations.

21A.14

II. The REIR's Cumulative Impacts Analysis is Inaccurate, Internally Inconsistent, and Misapprehends the Meaning of "Cumulative"

A. Agricultural Impacts

The REIR repeatedly acknowledges the cumulative urbanization of the County's agricultural land, pointing out that "from 1984 to 1996, 6,325 acres of important farmland were converted to non-agricultural uses in Orange County." REIR at 17. Yet despite its earlier concession of a 33-acre project-related farmland loss — an impact that constitutes almost 7% of the average yearly loss of agricultural land — the REIR concludes that there will be no cumulative agricultural impacts from the Project.

Lacking any specific discussion of "level of significance after mitigation," the REIR reaches this judgment in a one-line sentence in the "Conclusion" to the entire cumulative impacts discussion. REIR at 58. This sentence states that the Jail expansion would have a positive impact on agricultural resources due to its preservation of 40 acres of agricultural land on the base. This statement is entirely inconsistent with the REIR's previous conclusion that between the conveyance acres and the Musick project there would be a net loss of 33 acres of prime farmland. See REIR at 10, Table 2.

Even apart from the REIR's own recognition that the conveyance acres do not offset the on-site loss of 33 acres, the 40 conveyance acres cannot be considered as mitigation for the Project's cumulative impacts for the various reasons detailed above at Section I, A and B. Indeed, at two prior points the REIR itself explicitly recognizes the possibility that the conveyance acres will not be attained — see REIR at 25 and 28 — a possibility the REIR fails entirely to disclose in its cumulative impacts conclusion.

21A.15

The fact that a measure may be beyond reach for the County in terms of land acquisition is a valid basis for rejecting a mitigation measure. The fact that the commenter suggests a different value judgment between the acquisition costs of the mitigation measure and the construction costs of the jail is irrelevant.

21A.15 Please see response to Comment 21A.4 herein wherein the state manner of mapping farmlands is described. The lack of a micro-scale measurement of mapped farmlands — an exercise which the Department of Conservation staff expects to occur in connection with the preparation of site-specific EIRs and does in fact occur in this EIR context — is ample evidence of the fact that the mapped farmland number is not an absolute number.

As is noted in the letter from The Irvine Company, a major owner of vacant land in the county, there are many features of cost and infeasibility to private farming efforts in Orange County that exist irrespective of a private landowner's possible desire to farm. Furthermore, as noted in The Irvine Company letter and in the REIR, the situation involved both with the Musick site and the El Toro site is unique — it is unusual to have two major publicly owned properties adjacent to one another where opportunities for cooperation can occur.

Nonetheless — and this is overlooked by the commenter — the County does acknowledge the impact to mapped farmlands and explicitly states that if the LRA conveyance does not occur, this will be an additional impact. The mitigation measure goes on to connect the expansion of the jail facility with the replacement of agricultural land. More than this is not required by CEQA, either in a project-specific or cumulative impacts discussion. Further, the County acknowledges a cumulative impact to agricultural lands at pages 27 and 28 of the recirculated sections of the EIR.

In short, this section of the REIR must be revised to contain a discussion of "level of significance after mitigation," in which significant cumulative agricultural impacts to both prime and mapped land are acknowledged.⁶

21A.15

B. Traffic and Circulation

The discussion of both interim and long-term traffic impacts must be revised. As currently drafted, the discussion contains numerous errors, significantly understates traffic impacts due to a misapprehension of the meaning of cumulative impacts, impermissibly relies on vague and unspecified mitigation measures, and is inconsistent with other portions of the REIR. Additionally, as the REIR acknowledges, the cumulative growth discussion is based on the summary of projections contained in OCP 92. REIR at 26. This information must be updated to include the more current growth projections contained in OCP 86. Cumulative impacts identified as a result of this update must be fully acknowledged and discussed.

21A.16

1. Interim Impacts

As to interim impacts, the REIR acknowledges that the project "measurably adds to the cumulative impacts," at three road segments: Alton Parkway south of Rockfield, Alton Parkway south of Muirlands and Alton Parkway north of Muirlands. REIR at 37. With regard to the latter two impacts, the proposed mitigation provides only that the County will enter into an agreement with the City of Irvine to design and complete improvements. REIR at 47.

21A.17

The REIR elsewhere explains that adding/stripping an additional travel lane would serve to fully mitigate the Project contribution to the cumulative impacts to Alton Parkway south of Muirlands. As to Alton Parkway north of Muirlands, however, the REIR offers no information as to the specific measures — nor obviously any evaluation of their potential effectiveness — that could mitigate the Project impacts. Thus the proffered mitigation measure is far too vague to be relied upon as mitigation for the impacts to that road segment. The REIR must acknowledge a significant interim impact to Alton Parkway north of Muirlands.

21A.18

With regard to Alton Parkway south of Rockfield, despite the REIR's acknowledgment at page 37 that the Project itself measurably adds to the cumulative impacts at that segment, the REIR places all responsibility for mitigation of the Project's impacts on the Reuse EIR. This impermissible approach reflects the REIR's contention that the "massive" El Toro project outweighs the traffic impacts of the Project. REIR at

21A.19

⁶Although as discussed above, Lake Forest disagrees with the REIR's assessment that the loss of cultivated land constitutes a greater impact than the loss of mapped farmland, given the REIR's bifurcated approach to agricultural impacts such an approach (if used at all) should be followed consistently throughout the REIR.

21A.15

21A.16 Regarding the Orange County Preferred (OCP) development forecasts, there is no significant difference between the countywide forecast of employees between OCP 92 (dated 1995) and the OCP 96. The difference between OCP 92 and OCP 96 is in the distribution of employees among the cities. OCP 92 includes a higher, more intense concentration of employees in the City of Irvine and the City of Lake Forest and its sphere of influence. In addition, OCP 92 is more consistent with the existing inventory of employment development and the build-out forecast for employment development in the City of Irvine. For these reasons, the use of the OCP 92 forecasts in the REIR represents the worst case analysis for the cumulative impacts for the proposed project.

21A.17 Regarding the proposed mitigation measure (i.e., that the County will enter into an agreement with the City to design and implement improvements), the subject arterial highway improvements are located within the City of Irvine and therefore the design and implementation are subject to the City's approval. The agreement ensures that the design and implementation of the improvements are compatible with the City's capital improvement program and design standards.

This comment raises no new or expanded environmental issue or information.

21A.18 This comment mischaracterizes the REIR (page 46) and then draws an erroneous conclusion based on the mischaracterization. The comment states that: "the REIR explains that adding/stripping an additional travel lane would serve to fully mitigate the project contribution to the cumulative impacts to Alton Parkway south of Muirlands." Actually, the sentence on page 46 states that adding/stripping an additional lane would be required for both the No Project and the With Project condition for Alton Parkway south of Muirlands. The REIR statement is as follows:

"The mitigation measure required to be undertaken for the No Project condition (i.e., add/stripe an additional travel lane) would also serve to fully mitigate the Project contribution to the cumulative impact on this link."

This sentence simply distinguishes the mitigation requirements for Alton Parkway south of Muirlands (i.e., required for both the No Project and With Project condition) from the mitigation requirements for Alton Parkway north of Muirlands referred to in the comment. That is, the improvements to Alton Parkway south of Muirlands are already required to meet near-term conditions (i.e., the No Project conditions) and therefore would be required to be implemented by the City without the proposed project. However, the improvements to Alton Parkway north of Muirlands are not required by the No Project condition (page 46); therefore, the County would coordinate the design and implementation of the project mitigation improvement with the City of Irvine because (as noted above) this highway segment is located in the City of Irvine.

The comment also mischaracterizes the REIR when it states: "The REIR must acknowledge a significant interim impact to Alton Parkway north of Muirlands." In fact, the REIR states on page 37 that the project would measurably add to the cumulative impacts at the following deficient highway links:

1. Alton Parkway south of Rockfield
2. Alton Parkway south of Muirlands
3. Alton Parkway north of Muirlands

This comment raises no new or expanded environmental issue or information.

- 21A.19 The comment that "the REIR places all responsibility for mitigation of the interim impacts on the Reuse EIR" (at page 37) misstates or mischaracterizes the REIR and draws an erroneous conclusion. As stated on page 27, the REIR analyzes two alternative interim phasing scenarios for the El Toro Community Reuse Plan and identifies the cumulative effects of the proposed project under each of these scenarios. However, since no final trip generation data, impact or phasing impact information is available for the MCAS-El Toro Community Reuse Plan (CRP), the REIR takes the approach to mitigation explained at pages 46 and 47.

As stated (page 46) in the discussion of the Interim Conditions Mitigation Measure, the CRP FEIR 563 is a "first tier" EIR under CEQA and therefore addresses the CRP impacts at the long-range, general plan level only — the CRP FEIR 563 is not a construction-level EIR. In contrast, FEIR 564 is a construction-level EIR for a project which is proposed to be implemented in the interim condition. As stated (page 47), the County will prepare a second tier EIR for the CRP in 1999.

Until the second tier EIR for the CRP is prepared, there is no interim condition data available for the CRP and, therefore, the court directed and the County prepared an interim condition analysis (page 26) based on the extreme ends of the range of possible CRP phasing between "no development" and "build-out of the CRP" in the interim (and long-range) cumulative condition. However, unless and until an interim condition construction phasing analysis is prepared for the CRP, no improvement program can be designed beyond the mitigation measures contained in the FEIR/REIR 564, including:

48. Upon adoption of a Road Fee Program by the Board of Supervisors which includes the project site, the County shall pay the pro rata fee attributable to each project phase, or provide credits, prior to commencement of construction of the phase as required for the Musick Jail project under the Road Fee Program.

This fact is reinforced by the Board of Supervisors' actions regarding the CRP in December 1996, April 1998 and September 1998 when the Board successively approved a staff recommendation to study modified reuse alternatives that would reduce the intensity of the reuse plan to a point where the daily vehicle trip generation would be reduced from the December 1996 FEIR 563 figure of 305,000 daily trips (page 46 of the REIR) to approximately 160,000 daily trips. Likewise, ETRPA acted on September 28, 1998 to request that the County consider a second non-aviation plan which would reduce the daily trip generation from 345,000 daily trips (page 46 of the REIR) to approximately 276,000 daily trips.

The comment raises no new or expanded environmental issue or information.

If approved, these sizable reductions in the trip generation of the CRP will result in a reduction of the interim and long range cumulative impacts of the "With CRP" condition, which would most likely reduce specific highway improvements based on the December 1996 CRP (i.e., 305,000 daily trips). Therefore, the approach and resultant mitigation measures proposed by REIR 564 are correct.

What can only follow from such data is that it is the CRP — and not the jail — that precipitates the impact and therefore the project is entitled to rely on the CRP to relieve this impact. The commenter's attention is directed towards *Nollan v. California Coastal Commission* (1987), *Dolan v. City of Tigard* (1994) and *Ehrlich v. City of Culver City* (1996). In these cases it is made clear that a project is only responsible for its own — and not other projects' — impacts. Therefore, a mitigation measure could not legitimately be attached to this project for mitigation of impacts brought on by the El Toro CRP.

Neither is the County's reliance on this legally defined concept an attempt to present the jail expansion as tiny in comparison to the El Toro CRP. The El Toro CRP is a large project which dominates the circulation system around it. The reviewing court, in its statement of decision, required that the County look at an open space alternative — which became the "Without El Toro CRP" alternative. This alternative allows the jail's impacts to be analyzed without consideration of the CRP. Still, the impacts are only significant — and mitigatable — in the long term.

The comment raises no new or expanded environmental issue or information.

27. This contention is not only irrelevant to a cumulative impacts analysis under CEQA, but must be rejected on its own terms as well.

21A.19

Neither the statute, the Guidelines, nor the case law supports the argument that a project need not adopt mitigation for its impacts because another project causes a much greater impact. Were such approach permissible, every relatively small project could conclude that its own impacts were insignificant simply by placing responsibility for mitigating cumulative impacts on larger projects to be reviewed in the future.

21A.20

The REIR also ignores the fact that the Project's contribution to the overall cumulative traffic impacts is hardly insignificant even when compared to the Reuse impacts. For example, as Table 4, REIR at 36, indicates, the Project will add 2,000 extra trips to the arterial at Alton south of Rockfield; the Reuse Project will add an additional 4,000. Thus fully a *third* of the traffic contributing to the cumulatively deficient volume/capacity ("v/c") condition at this intersection is attributable to the Project alone.

21A.21

The REIR cannot simply rely on the vague promise to adopt "all appropriate project-specific traffic mitigation" in the El Toro Reuse Plan to address the cumulative impacts caused by the 2,000 trips contributed by the Project. REIR at 46. Rather, the REIR must clearly acknowledge significant cumulative impacts at Alton south of Rockfield prior to mitigation; absent further discussion and evaluation of specific measures to address such impacts, the REIR must also conclude that such impacts remain significant after mitigation as well.

21A.22

Thus, the "Level of Impacts After Mitigation" discussion at page 48 must be revised to reflect significant cumulative Interim traffic impacts to Alton Parkway north of Muirlands and Alton Parkway south of Rockfield.

2. Long-term Impacts

The REIR's discussion of the Project's long-term impacts is similarly misleading and inaccurate, and is further muddled by the confusing nature of Table 6. Table 6, REIR at 44-45, purports to provide a "Long-Range Volume/Capacity Ratio Summary With and Without Musick Facility and With El Toro CRP." The table does not appear to provide all this information, nor is it possible to ascertain from the table what information is in fact being provided. It is assumed here that the column labeled "Long-Range with Project" refers to both the Musick Jail Expansion and the El Toro Reuse Project; it is entirely unclear what the column labeled simply "Long-Range Volume" refers to. The table must be revised to clarify exactly what data is being provided in each column.

21A..23

Apart from this concern, the long-term impacts discussion evidences a misapprehension of the meaning of cumulative impacts. The REIR assumes that the Project can have significant long-term cumulative impacts only on those roadways where the traffic added by the Project *alone* will result in a deficient traffic level. It does not acknowledge an impact where the Project contributes measurable traffic to a roadway that becomes deficient as a result of the *combined* Project and El Toro traffic.

21A.24

21A.20 The comment omits the fact that Table 14 shows that Alton Parkway south of Rockfield would not be deficient in the interim condition with cumulative projects plus the proposed project (i.e., the volume to capacity ratio would be 0.89). The proportion of the traffic attributable to the proposed project is relevant to determine the fair share of costs for the project only if there is a deficiency on this link. Clearly, if the CRP were built out in the interim condition, this link would be deficient (Table 4). However, smaller more realistic phasing of the CRP in the interim condition could more likely result in no deficiency on this link — but as noted above the phasing and the final trip generation for the CRP won't be analyzed until the second tier EIR in 1999. REIR 564 has analyzed the universe of possible interim cumulative impact scenarios for the CRP and the proposed project (page 26); however, at this point, only the mitigation measures proposed can be designed without speculating on the interim impact of the CRP.

The comment misstates or mischaracterizes the REIR and draws an erroneous conclusion. Under CEQA, the cumulative impact from several projects is the change in the environment which results from the *incremental impact* of the project when added to other closely related past, present and reasonably foreseeable probable future projects. An EIR is required to examine reasonable options for mitigating or avoiding such impacts. In this case, the REIR adequately examines and mitigates those cumulative traffic impacts attributable to the jail expansion project (see REIR, pages 72 to 74, Mitigation Measures 8 and 9). Traffic impacts attributable to the CRP will be examined and appropriate mitigation proposed as the impacts of that plan are studied further.

21A.21 Please see response to Comment 21A.20 above.

21A.22 Please see response to Comment 21A.20 above.

21A.23 As the comment notes, Table 6 is titled "Long-Range Volume/Capacity Ratio Summary With and Without Musick Facility and With El Toro CRP." The comment assumes correctly that when the table refers to "long-range V/C," the table is referring (per the title) to "long-range Volume/Capacity Ratio without Musick Facility and with El Toro CRP." When the table refers to "long-range with Project" (per the title), Table 6 is referring to the "long-range with the proposed Musick Jail Expansion project." This is explained age page 38 of the REIR and at page 4 of Appendix G.

The comment correctly interprets the title and headings of Table 6. Therefore, the comment raises no new or expanded environmental impacts or information.

21A.24 Turning to the Statement of Decision (Appendix A, Statement of Decision, page 13), the court stated:

"Upon recirculation, if cumulative impacts to the basin are analyzed against the hypothesis of a No Project and/or Open Space alternative for El Toro reuse **and** against a hypothesis of a significantly intensive project for El Toro reuse, and are found upon substantial evidence to be insignificance in any case, CEQA would be complied with." (lines 16-20)

The comment misstates or mischaracterizes the REIR regarding long-term impacts and requirements for mitigation (see response to Comments 21A.17, 21A.18 and 21A.19 above). As stated in the REIR (page 27), the REIR analyzes two alternative interim phasing scenarios for the El Toro Community Reuse Plan and identifies the cumulative effects of the proposed project under each of these scenarios. However, since no final trip generation data, impact or phasing impact information is available for the CRP, the REIR takes the approach to mitigation explained at pages 47 and 48.

As stated (page 47) in the discussion of the long-range conditions mitigation measure, the CRP FEIR 563 is a "first tier" EIR under CEQA and therefore addresses the CRP impacts at the long-range, general plan level only — the CRP FEIR 563 is not a construction-level EIR. In contrast, FEIR 564 is a construction-level EIR for a project which is proposed to be implemented in the interim condition. As stated (page 47) the County will prepare a second tier EIR for the CRP in 1999.

Until the second tier EIR for the CRP is prepared, there is no interim condition data available for the CRP and, therefore, the court directed and the County prepared a long-range analysis (page 26) based on the extreme ends of the range of possible CRP phasing between "no development" and "build-out of the CRP" in the long-range cumulative condition. However, unless and until a long-range construction-level analysis is prepared for the CRP, no improvement program can be designed beyond the mitigation measures contained in the FEIR/REIR 564.

This fact is reinforced by the Board of Supervisors' actions regarding the CRP in December 1996, April 1998 and September 1998 when the Board successively approved a staff recommendation to study modified reuse alternatives that would reduce the intensity of the reuse plan to a point where the daily vehicle trip generation would be reduced from the December 1996 FEIR 563 figure of 305,000 daily trips (page 46 of the REIR) to approximately 160,000 daily trips. Likewise, ETRPA acted on September 28, 1998 to request that the County consider a second non-aviation plan which would reduce the daily trip generation from 345,000 daily trips (page 46 of the REIR) to approximately 276,000 daily trips.

The comment raises no new or expanded environmental issue or information.

If approved, these sizable reductions in the trip generation of the CRP will result in a reduction of the interim and long range cumulative impacts of the "With CRP" condition, which would most likely reduce specific highway improvements based on the December 1996 CRP (i.e., 305,000 daily trips). Therefore, the approach and resultant mitigation measures proposed by REIR 564 are correct.

For example, Table 5, REIR at 41, indicates that the Project will add 2,000 trips at Alton east of I-5 and 2,000 trips to Alton south of Muirlands. Table 6 appears to indicate that, with the additional traffic added by the El Toro project, the volume/capacity level at these two levels exceeds the established level of service performance standard. Similarly, according to Table 5 the Project will add 1,000 trips each to the intersections of Irvine east of ETC East Leg, Bake north of Toledo and Bake north of Jeronimo. Table 6 appears to indicate that this traffic combined with the El Toro traffic will lead to a deficient v/c ratio at these arterial links as well. Yet the REIR does not acknowledge a significant cumulative impact at any of these arterials.

21A.25

This approach ignores the obvious: The point of a cumulative impacts analysis is not to determine whether the additional traffic generated by the Project would have a significant impact in and of itself, but to determine whether the Project's impacts *in conjunction with other foreseeable projects* would have significant impacts. See 14 Cal. Code Regs § 15355 (defining cumulative impacts as "two or more individual effects which, *when considered together*, are considerable or *which compound or increase other environmental impacts*." *Emphasis added.*)

The REIR must be revised to acknowledge significant cumulative impacts at each of the road segments discussed above. And absent the adoption of specific mitigation measures to address overcrowding at these arterials, the long-term traffic impacts must be acknowledged as significant after mitigation as well. As previously mentioned, the REIR's pronouncement that all appropriate project-specific traffic mitigation measures for El Toro will be adopted does not act to mitigate such impacts.

The mitigation proposed is inadequate for those long-term impacts that the REIR does acknowledge (at the arterial links of Alton Parkway south of Rockfield and Alton Parkway north of Muirlands, REIR at 47). Simply requiring the County to "enter into an agreement with the City of Irvine to design and complete improvements," *id.*, is too vague and uncertain to be relied upon. Absent further discussion and evaluation of specific mitigation measures, an unmitigated impact must be acknowledged.

21A.26

Thus, the discussion of "Level of Impacts After Mitigation" is inaccurate in concluding that "the Project would have no residual adverse impacts." REIR at 48. Indeed, this conclusion is explicitly contradicted later in the REIR, which lists "[i]mpacts to four arterial links within the arterial highway system in the long-range condition," in its inventory of significant unavoidable adverse impacts. REIR at 63. Even this latter admission, however, seriously understates the significant impacts. The discussion of impacts after mitigation must be revised to acknowledge impacts on all road segments to which the Project will be adding measurable traffic and which will be deficient either due to Project traffic alone or to the cumulative effect of Project and El Toro Reuse traffic.

Finally, the "Conclusions" discussion regarding cumulative traffic impacts, REIR at 58, must also be revised. This section, which as currently written focuses on the impacts of a business park development, suggests that the REIR is intended as a "sales piece" rather than an unbiased discussion of Project impacts. The fact that another kind of development might have greater cumulative impacts at the site is irrelevant to the

21A.27

21A.25 This comment misstates the REIR and therefore draws an erroneous conclusion. The text at page 45 and Table 7 of the REIR shows that the proposed project would add significant (measurable) traffic to the deficient links identified in the comment for the "With CRP" scenario. The response "Yes" in the columns in Table 7 indicates that the proposed project would contribute significant traffic volumes to the links identified in the table. Therefore, the REIR does acknowledge a significant cumulative impact at these arterials in the "With CRP" scenario.

The comment raises no new or expanded environmental issue or information.

21A.26 Please see responses to Comments 21A.21 through 21A.25 above. This comment raises no new or expanded environmental issue or information.

21A.27 The commenter criticizes the acknowledgment by the County that if the jail site were put to another development use, impacts would be higher. Please see response to Comment 10.18 of the City of Irvine letter.

It is the commenter itself who has demanded that the Musick jail site be sold for development purposes. In its role as an informational document, it is therefore appropriate for the EIR to disclose what types of impacts might be expected from that type of development. It would be inappropriate indeed for the Board of Supervisors to make a decision to sell the Musick jail site without an acknowledgment of the impacts this might create.

required disclosure of the Project's traffic impacts. The conclusion must fully and accurately acknowledge such impacts.

21A.27

C. Air Quality

The REIR states that under one potential scenario "the cumulative air quality impacts exceed AQMP projects for the air basin and, therefore, are significant." REIR at 54. The REIR then proceeds to the conclusion that such impacts will be mitigated simply because "all appropriate project-specific air quality mitigation" will be adopted at some point in the future in an EIR prepared for the airport master plan project. REIR at 54. Such unspecified and unevaluated mitigation is too vague to justify the REIR's conclusion that cumulative air impacts will be mitigated. Absent the addition of specific mitigation measures, the REIR must be revised to include a "level of impacts after mitigation" discussion — a discussion that is absent from the current document's discussion of air quality — acknowledging the Project's significant cumulative air impacts.

21A.28

Presumably in lieu of the "level of impacts after mitigation" discussion, the REIR offers a conclusion as to air quality impacts following the entire cumulative impacts discussion. REIR at 59. This conclusion is remarkable. The conclusion contains only two statements as to the cumulative air impacts. First, it contends — purportedly pursuant to the air quality discussion in the preceding pages — that there will be no cumulative air quality impacts because the emissions associated with the jail would be equivalent if the jail were located anywhere in the County. This claim is not even hinted at in the preceding analysis. More importantly, the fact that the jail would also have emissions if built elsewhere in the County is entirely irrelevant to conclusions as to whether such emissions would be cumulatively significant.

The Conclusion's next and final comment on the air impacts informs us that "the Jail expansion produces no locally elevated emissions of significance." REIR at 59. Absent any further discussion, this statement simply ignores the preceding discussion addressing "cumulative regional impacts" and hence is entirely misleading as to the Project's air impacts. These impacts involve NOx emissions — emissions that the REIR repeatedly acknowledges are significant (REIR at 54 and 60) and of regional concern. *Id.* at 54. The REIR's misleading conclusion must be revised to disclose the Project's significant regional cumulative air impacts.

D. Public Services and Facilities

The discussion of cumulative public services and facilities impacts, REIR at 54-58, fails entirely to analyze law enforcement impacts — despite the fact that the Superior Court's Statement of Decision explicitly noted that, "the findings in this category may be corrected by additional analysis and inclusion." Appendix A to REIR at 16:5-6 (emphasis added). The REIR must be revised to examine cumulative impacts on law enforcement.

21A.29

21A.28 Please see response to Comment 1 of the letter from AQMD. The AQMD staff have concurred in the analysis of cumulative impacts. Clearly there are many ways of evaluating cumulative impacts with respect to air quality, and there has been significant debate — not on the jail but on the community reuse plan — as to how emissions are to be calculated. The County has based its analysis on substantial evidence and the mere disagreement of the City of Lake Forest with respect to the conclusions of this analysis is irrelevant and not a basis for a finding of inadequacy. The County has indicated that it will make a finding of significance with respect to NOx emissions — even though those emissions will occur in equal or greater amounts wherever the jail is located in the County — and therefore no further discussion is necessary.

21A.29 There is nothing to correct in this section. The addition of one sargent and several officers was promoted by the City of Lake Forest as a measure to withstand the perceived increase in criminal effects as a result of the presence of visitors and the release of inmates in the community. However, the court in its Statement of Decision at page 11 stated that the fact that only 33 persons out of 16,107 persons released had committed a new offense established insignificance as a matter of law (lines 8 and 9).

Therefore, and since the City of Lake Forest is under contract with the Sheriff's Department, law enforcement issues are not significant in this case. The Saddleback Station constitutes a significant law enforcement presence in the area as well.

Additionally, the court pointed out to the City of Lake Forest that it was unaware of an authority that holds that adding personnel, per se, is an environmental impact. The County does not find that additional analysis is necessary for the addition of the personnel, since: 1) it would be a very small number for impact assessment and 2) it is absorbed by additional phases of the jail (i.e., if Phase 1 is built and the City of Lake Forest chooses to add five law enforcement personnel, the traffic/air quality and other impacts do not increase until all of the expansion and its related facilities are built, *and* the five law enforcement personnel are present. Furthermore, it is stated that the airport is self-supporting in terms of law enforcement and would have no effect in a cumulative sense on the measures related to the jail.

III. The Mitigation Measures In the Revisions To Findings Must Be Implemented Prior To Project Construction

Mitigation Measures 11 and 12, REIR at 62, should be revised to require implementation of these measures prior to construction of any portion of the Project, not prior to completion of each phase of construction. The County should not embark on construction of this Project before ensuring that mitigation is feasible and that the County has firmly committed to that mitigation.

21A.30

IV. The Inventory of Significant Unavoidable Adverse Impacts Understates the Project's Impacts

The inventory of significant unavoidable adverse impacts fails to list all impacts that must be acknowledged. As per the comments above, the list should also include project impacts to 14.7 acres of cultivated land; cumulative impacts to mapped and cultivated farmland; and cumulative air quality impacts.

21A.31

Contrary to conclusions earlier in the document, the REIR acknowledges unavoidable, adverse traffic impacts. In doing so, however, it understates the traffic impacts. The list must include each arterial link to which the project will contribute measurable traffic impacts when such impacts, alone or in conjunction with the El Toro Reuse Plan, will result in deficient v/c ratios.

V. The Inventory of Mitigation Measures For Recirculated Provisions Is Deficient

21A.32

This section must be revised to reflect the required changes to the body of the REIR as set out in the comments above. Of additional note, in this section the REIR suggests for the first time that the Project alone would add measurable traffic to two links that would become deficient due to the Project — Irvine Blvd. east of Alton Parkway and Bake Parkway north of Jeronimo. REIR at 65. If the statement is correct, the body of the REIR must be rectified to reflect this information.

According to Table 5, REIR at 41, however, it does not appear that the Project alone would cause such impacts to these intersections. Perhaps the drafter of the REIR mistakenly reached this conclusion by looking at Table 6 rather than Table 5. This illustrates the need to clarify exactly what Table 6 refers to, and to correct any misapprehensions in the REIR based on the lack of clarity of Table 6.

Even assuming the statement is incorrect, it is nonetheless disturbing that such information should appear for the first time in the Inventory of Mitigation Measures. If the drafters of the REIR believed that there would be significant cumulative impacts to these two arterials, such information obviously should have been clearly disclosed in the traffic impacts discussion as well.

21A.30 **The County accepts** the proposal of the commenter to impose the responsibility of implementation of Mitigation Measure 11 at a point prior to *construction* of the project. However, with respect to Mitigation Measure 12, since there would be no potential impacts until the completion of the construction and occupancy of the facility, the requirement that consultation occur prior to completion is sufficient.

21A.31 In response to the City's contention that the REIR acknowledges unavoidable adverse traffic impacts, but understates those impacts, Section 6 on page 63 contains the "Inventory of Significant Unavoidable Adverse Impacts" for REIR 564. This inventory includes impacts to four arterial links within the arterial highway system in the interim and long-range condition. The four potentially unavoidable adverse cumulative traffic impacts are:

1. Alton Parkway north of Muirlands (Table 4, page 36 of the REIR) where the proposed project would increase a non-deficient V/C ratio (0.87) to a deficient V/C ratio (0.91) in the interim condition without the El Toro CRP.
2. Alton Parkway east of I-5 Freeway (Appendix G, page 18 of the REIR) for the long-term condition without the El Toro CRP.
3. Alton Parkway south of Rockfield (Table 7, page 45 of the REIR) for the long-term condition without the El Toro CRP.
4. Alton Parkway north of Muirlands (Table 7, page 45 of the REIR) for the long-term condition without the El Toro CRP.

These four arterial highway links would operate at acceptable V/C ratios with cumulative growth and development but without the proposed project (and without the CRP). With the addition of the proposed project (but without the CRP), the V/C ratios would be reduced to deficient levels. Mitigation measures are proposed, but require the approval of an agreement with the City because the facility is within the boundaries of the City. Mitigation Measures 8 and 9 (REIR, page 47) provide that if the City withholds approval of the agreement, the County shall complete the improvements which are within its authority to complete. This scenario may result in incomplete mitigation of the project impacts, and an unavoidable adverse impact.

In response to the City's contention that the REIR should list arterial links where the project will contribute measurable traffic impacts when such impacts alone or in conjunction with the El Toro Reuse Plan will result in deficient V/C ratios, these arterial links are listed in Table 7 (REIR, page 45) and Appendix 45, page 18. As discussed in the responses to Comments 21A.19 and 21A.26, the comment is incorrect.

- 21A.32 In response to the City's comment that this section must be revised to reflect the changes to the REIR set out in the City's previous comments, the responses above demonstrate that no changes are required.

In response to the City's comment regarding Irvine Boulevard east of Alton Parkway and Bake Parkway north of Jeronimo, per Table 4, Table 7 and in Section 6 "Inventory of Significant Unavoidable Adverse Impacts" (see also the response to Comment 21A.31), mitigation measures are proposed for the deficient impacts identified to the arterial highways identified at pages 46, 47 and 48 which do not include Irvine Boulevard east of Alton Parkway and Bake Parkway north of Jeronimo. The proposed mitigation measures require no modification, however, because they are based on the information in pages 46, 47 and 48, not the prologue on page 65.

VI. A More In-depth Analysis of Alternatives Is Required and Environmentally Superior Alternatives Must Be Acknowledged

The Initial EIR stated that because the Project was found not to have significant impacts, a more in-depth discussion of alternatives was not considered necessary. See Response to Comments at 190, 192. Given that the REIR now acknowledges significant unmitigated impacts, a more in-depth discussion of alternatives is required. Unfortunately, the REIR simply provides the Initial EIR's alternatives discussion along with limited additional information provided in Table 13, REIR at 67-68. This falls far short of the level of analysis required.

Based on even the inadequate information provided in the existing analysis, however, it is clear from Table 13 that alternatives 7 and 8 are environmentally superior to the Project. The REIR must acknowledge as much.

Additionally, if alternatives 9 and 12 are not being acknowledged as environmentally superior because "other impacts to physical environmental resources" will occur, REIR at 67, the level of analysis in the REIR does not currently support this conclusion. Further information must be provided to allow the reader and the County decision-makers to fully assess these potentially less environmentally-damaging alternatives.

The REIR itself provides information supporting further analysis of an alternative that involves selling the Musick site and buying a remote site for the Project. While the County concedes that it currently lacks funding to build the jail on the Musick site, and that it does not know where such funding will be attained in the future, see Exhibit "A" at 1-2 (attached), the REIR suggests that the Project site is worth approximately \$30,000,000 - \$60,000,000. REIR at 8. Selling the Musick site and using the proceeds to buy a new site would solve the County's fiscal dilemma as to funding for a new prison. (And allowing the Musick site to be used for business development would also yield a great deal more money in tax revenue for the County than would the proposed Project.)

VII. The REIR Must Be Recirculated After It Is Revised

The County cannot rectify the REIR's critical deficiencies without adding significant new information throughout the document. The County must therefore recirculate the entire revised REIR for public comment prior to certification. CEQA Guidelines, 14 Cal. Code Regs. Section 15088.5.

Section 15088.5 provides that information is significant such that recirculation is required where

"the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible

21A.33

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21A.33 The County disagrees that a new alternatives discussion is necessary. In fact, the commenter's suggestion that the Musick site be sold and a new site found compounds environmental impacts. A remote site — from the County's lengthy evaluation — almost certainly produces more significant impacts. It is particularly important for the reader to be aware that the County has actually prepared environmental impact reports on many of these remote sites and therefore is in an excellent position to make this determination. Therefore, allowing the Musick site to be used for "business development" not only creates additional traffic and air quality impacts at the Musick site, among others (see response to Comment 10.18 of the City of Irvine), but cumulatively produces more impacts by producing additional impacts at a remote site. Therefore, reliance on the current alternatives analysis — upheld by the court in the litigation on the Final EIR — is sufficient under CEQA.

With respect to Alternatives 7 and 8, Alternative 7 is infeasible for the reasons stated. Alternative 8 does not meet the purpose and need of the project.

21A.34 The County disagrees with the commenter's position regarding new information. No information needs to be added to the EIR. The County has already disclosed the environmental impacts in this recirculated section, distributed same to the public, and is responding to comments. More than that is not required by CEQA.

"Significant new information" is not a change in the document to suit the commenter's opinion regarding the conclusions that the document should draw. Significant new information is that information which presents a seriously different environmental picture than was presented in the original EIR. Because the County was instructed by the court to undertake the new agricultural lands and cumulative impact evaluation, and because the County did so and did circulate this information, the County's duty under CEQA has been fulfilled.

project alternative) that the project's proponents have declined to implement."

This same Guideline further explains that "significant new information" requiring recirculation includes, for example, a disclosure showing that a new significant environmental impact would result from the project or new mitigation measure, there will be a substantial increase in the severity of an environmental impact absent the adoption of mitigation measures reducing the impact to an insignificant level, or the draft REIR was so fundamentally inadequate and conclusory in nature as to preclude meaningful review and comment.

As the City's comments document, the County must revise the REIR by adding precisely the kinds of "significant new information" detailed in section 15088.5. Such new information includes the acknowledgement of significant land use impacts, project-specific and cumulative agricultural impacts; and cumulative air and traffic impacts.*

In short, CEQA clearly requires that the County significantly revise the REIR in light of its critical deficiencies, and that the public be provided the opportunity to comment on the revised document.

VIII. Contrary To the REIR's Suggestion, the Board of Supervisors May Not Exempt the Project From Applicable Zoning and Thus a Significant Land Use Impact Must Be Acknowledged

Finally, the REIR states that the zoning exemption for the Project discussed in the initial EIR will be re-noticed. REIR at 3. Pursuant to Section 7-9-20(l)(3) of the Orange County Code, however, the Board of Supervisors' authority to exempt County property from land-use regulations of the Zoning Code is constrained. Such exemptions are permissible only if the intended exemption for the proposed project "is part of a General Development Plan, Master Plan, or other capital improvement plan which has been reviewed and approved by the Director, EMA, with respect to planning and environmental concerns." Here, the proposed project is not part of a general development plan, master plan, or other capital improvement plan. As noted above, the County's most recently proposed five-year capital improvement plan provides no funding for the proposed Musick jail facilities, or any of the facilities comprising that project.

Clearly a zoning exemption for this property is not authorized. The construction of the Project on a parcel of property that is currently zoned for agricultural use therefore represents an inconsistency with existing land use planning that must be acknowledged as a significant impact.

* To the extent that at some points the REIR appears to acknowledge traffic impacts, the REIR nonetheless needs to be recirculated because the REIR must be revised to evidence a "substantial increase" in the severity of traffic impacts presently acknowledged.

21A.34

21A.35

21A.34

21A.35 As was described in the Final EIR 564 for the Musick jail expansion, the project is a Master Plan for the jail expansion. In fact, the description of the project at Exhibit 6 in Final EIR 564 is "Master Site Plan." This matter was argued before the Superior Court, and the court ruled in favor of the County on this issue. The County zoning exemption has been properly noticed and is available to the Board of Supervisors under the Orange County code.

COUNTY OF ORANGE
STRATEGIC FINANCIAL PLAN

WORKBOOK

STRATEGIC FINANCIAL PLAN BOARD OFFSITE
MARCH 5, 1998

EXHIBIT A

26 • MUSICK BRANCH JAIL EXPANSION

I. DESCRIPTION OF ISSUE:

The critical shortage of jail beds in Orange County has been thoroughly documented in other reports to the Board of Supervisors. In summary, jail expansion has not been able to keep up with the demand for jail beds. This has caused over-crowded conditions in the jails and has resulted in thousands of inmates being released each year before serving their entire sentences. The last update of the Major Corrections Needs Assessment Study ("Omni Report" 1987) projected that the County would need 10,911 beds to handle peak populations in the year 2006. The 1996 EIR for the expansion of James A. Musick Jail identified the need to expand Musick to about 7,500 beds to solve the current over-crowding problems and meet the projected jail bed needs of the County.

II. PLAN TO ADDRESS ISSUE:

The Board of Supervisors certified EIR No. 564 for the expansion of the James A. Musick facility to over 7,500 beds to house all classifications of inmates. The adequacy of the EIR is being challenged in court and the County will continue to address all legal challenges to the EIR.

Once the EIR is cleared of all legal challenges, implementation of this project will depend upon funding sources available to pay for construction and operations. Cost estimates have not yet been developed, but it is certain that the County will not be able to fund the entire project at one time. The Sheriff is developing a phasing plan for system-wide jail expansion which will cover Phases II, III, and IV of Theo Lacy expansion as well as expansion of Musick. At this time it is assumed that further expansion of Theo Lacy will take place before expansion of Musick. It is also assumed that expansion of Musick will take place after the 5-year horizon to the Long-Range Strategic plan.

Once the detailed phasing plan and cost estimates are developed, they will be provided in future updates of the Strategic plan.

III. COST ESTIMATES:

At this time cost estimates are not available.

IV. FUNDING SOURCES:

At this time, there are no non-General funding sources available for construction and operation of new jail facilities at Musick. Sheriff's projections indicate that future growth in Prop 172 revenue will not be sufficient to fund future jail expansion. It appears that new funding sources will have to be developed before Musick expansion can be implemented.

V. STAFFING IMPACT:

At this time, staffing impacts are not known although staffing impacts are expected to be significant.

James A. Musick Jail Expansion

I

2/17/98

28 - James A. Musick Jail Expansion										
Cost and revenue estimates have not been developed. Net County Cost Impact will be significant.										
	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07
I. Costs	Budget									Total
One-Time Costs										0
Subtotal One-Time Costs	0	0	0	0	0	0	0	0	0	0
Ongoing Costs										0
Salaries & Employee Benefits										0
Services and Supplies										0
Other Charges										0
Fixed Assets										0
All Others										0
Subtotal Ongoing Costs	0	0	0	0	0	0	0	0	0	0
Total FY Cost	0	0	0	0	0	0	0	0	0	0
II. Non-General Fund Revenue										0
Taxes										0
Licenses, Permits, Franchises										0
Fines, Forfeitures, Penalties										0
Use of Money and Property										0
Intergovernmental Revenues										0
Charges For Services										0
Miscellaneous Revenue										0
Other Financing Sources										0
Total Non-General Fund Revenue	0	0	0	0	0	0	0	0	0	0
III. General Fund Requirement	0	0	0	0	0	0	0	0	0	0
IV. Staffing										0
New Regular Positions										0
New Limited Term Positions										0
Total New Positions	0	0	0	0	0	0	0	0	0	0
RD 2/13/98										
BR-issu/ rls										

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2/6

LATE COMMENTS RECEIVED



Orange County Fire Authority

PO Box 86, Orange, CA 92856-9086 - 180 S. Water St., Orange, CA 92866-2123
Chip Prather, Fire Chief (714) 744-0400

October 5, 1998

RECEIVED

OCT 05 1998

via fax
Environmental & Project Planning

Mr. George Britton, Manager
PDSD/Environmental & Project
Planning Services
30 North Flower Street, Rm 321
P.O. Box 4048
Santa Ana, CA 92702-4048

SUBJECT: Recirculated Portions of EIR No. 564 - Musick Expansion

Dear Mr. Britton:

Thank you for the opportunity to review the subject document. The following information is provided for your consideration:

Page 57/58 - This section references the self sufficiency of an airport environment in the area of fire and paramedics and requires clarification. FAA Regulations require dedicated airport rescue and firefighting (ARFF) resources to be within 3 minutes of the furthest runway to perform crash, fire, and rescue services. Additional resources would be required for paramedic and support functions. Because the reuse plan has not been finalized, the final number, configuration, and location of stations has not been determined.

Page 61 - Fire Authority second paragraph - Last line should delete reference to "if any" as this comment is conjectural.

Pages 61/62 Mitigation Measure 10 & 11 - We recommend splitting the issues related to construction and emergency service delivery between Mitigation measures 10, 11, 12 and renumbering No. 13:

Mitigation Measure No. 10 Prior to the full implementation of Phase 1 of the Jail expansion, and prior to the construction of each phase thereafter, the County Sheriff-Coroner shall present evidence to the County Executive Officer that the Orange County Health Care Agency or other qualified provider has provided onsite medical services sufficient to significantly reduce the need for paramedic calls to the Musick Jail facility.

Mitigation Measure No. 11 -Prior to the completion of each phase of construction, the County of Orange shall coordinate with the Orange County Fire Authority regarding emergency service demand requirements.

Mitigation Measure No. 12 - The Orange County Fire Authority with the County of Orange shall concurrently review site and plan review documents to ensure fire protection and life safety issues are addressed as provided in adopted regulations.

Renumber No. 12 to 13. (reference coordination with Lake Forest law enforcement requirements).

Page 65 Mitigation Measure No. 5 - Separate construction issues and emergency response issues as noted in comments above.

We appreciate the opportunity to respond to this important project and appreciate the efforts of the Orange County Sheriff to cooperate on this issue. Please contact me if you need additional information.

Sincerely,

A handwritten signature in black ink, reading "Patrick L. Walker". The signature is fluid and cursive, with a long horizontal stroke at the end.

Patrick L. Walker
Assistant Chief/Fire Marshal



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OCT 08 1998

Environmental & Project Planning

October 5, 1998

George Britton, Manager
PDSD/Environmental & Project Planning Services Division
County of Orange
300 N. Flower Street, Rm. 321
Santa Ana, CA 92702-4048

**Subject: Recirculated Sections of EIR No. 564:
James A. Musick Jail Expansion and Operation**

Dear Mr. Britton:

The Orange County Transportation Authority (OCTA) staff has reviewed the recirculated sections of the Environmental Impact Report (No. 564) for the James A. Musick Jail Expansion and Operation. Staff has no comment on the project at this time.

We appreciate the opportunity to provide input on this project. If you have any further questions please contact Amy Walvoord at (714) 560-5751.

Sincerely,

Kia Mortazavi
Manager, Planning and Programming